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# Recreation Land Price Escalation

Clemson University



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89TH CONGRESS } HOUSE OF REPRESENTATIVES { DOCUMENT  
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## PRESERVING OUR NATURAL HERITAGE

### MESSAGE

FROM

## THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

PROGRAMS FOR CONTROLLING POLLUTION AND PRESERVING  
OUR NATURAL AND HISTORICAL HERITAGE

FEBRUARY 23, 1966.—Referred to the Committee of the Whole House of  
State of the Union and ordered to be printed

To the Congress of the United States:

Albert Schweitzer said: "Man has lost the capacity to fore-  
to forestall. He will end by destroying the earth."  
The most affluent nation on earth may feel that it is immu-  
this indictment. A nation that offered its people—a century  
uncharted forests, broad sparkling rivers, and prairies ripe for  
may have expected that bounty to endure forever.

But we do not live alone with wishful expectations.  
We live with history. It tells us of a hundred proud civi-  
that have decayed through careless neglect of the nature that

We live with the certain future of multiplying popula-  
demands on the resources of nature will equal their num-  
We are not immune. We are not endowed with a limitless nat-  
those perished nations of the past—with a limitless nat-

Yet we are endowed with their experience. We are en-  
magnitude of the choice before us, and its consequent  
child born on our continent from this day forward.

Economists estimate that this generation has al-  
losses from pollution that run into billions of dollars a  
the ultimate cost of pollution is incalculable.

We see that we can corrupt and destroy our lands  
forests, and the atmosphere itself—all in the name of

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... "The spiraling cost of land  
acquisitions by the Federal  
Government, particularly  
for water resource and  
recreational purposes, is  
a matter of increasing concern."

GOVERNMENT  
PUBLIC  
MAR 3 1966



U.S. DEPARTMENT OF THE INTERIOR  
Stewart L. Udall, Secretary

Bureau of Outdoor Recreation  
Washington, D.C. 20240

A REPORT  
ON  
RECREATION LAND PRICE ESCALATION

Bureau of Outdoor Recreation  
DEPARTMENT OF THE INTERIOR  
Washington, D. C. 20240

## STATEMENT OF SECRETARY OF THE INTERIOR

This report is the result of a six month's study by various agencies in this Department, chiefly the Bureau of Outdoor Recreation. Its purpose is to examine the effect of price escalation in connection with needed purchase of recreation lands and waters for public purposes. The report was prepared in response to both a directive from President Johnson and expressions of repeated concern by the Senate and House Committees on Interior and Insular Affairs and on Appropriations.

The report also suggests a 10-year program within the framework of the Land and Water Conservation Fund that would attain the objectives of the Congress as enunciated in that Act. The report offers several findings and conclusions and recommends possible answers to the troublesome problem of program accomplishment and escalation of values in areas where National Parks, National Seashores, and National Recreation Areas have been authorized by the Congress. Some of the recommendations would require legislation for their implementation.

The President's budget for FY 1968 recognizes this problem in recommending \$32 million from the advance authorization already available under the Land and Water Conservation Fund Act. All of this \$32 million would be for the use of Federal Agencies. The Budget recommends \$5 million to be appropriated to the Bureau of Outdoor Recreation for the specific purpose of allocation to the acquiring agencies as needed to cover emergency acquisitions and related action such as beginning to implement new authorizations passed by the Congress. The purpose of this emergency fund is to provide flexibility and quick action where needed to help overcome the escalation problem. There is likewise provision in the budget for FY 1968 for additional staffing of about 100 persons to enable the National Park Service to accelerate its acquisition program.

According to the President's budget document:

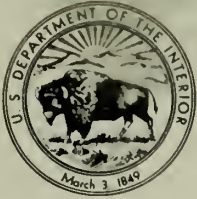
"Receipts of \$110 million are estimated to become available to the Land and Water Conservation Fund in fiscal year 1968, and an advance appropriation of \$32 million is recommended to augment the Fund. Together, these funds will enable Federal agencies and States to expand their recreation programs to provide additional outdoor recreation opportunities. Grants of \$65 million will be made from the Fund to the States for this purpose and \$74 million will be available for acquisition of recreation lands by the National Park Service, Forest Service, and the Bureau of Sport Fisheries and Wildlife."

The Department of the Interior is continuing to examine the problem of recreation land price escalation and is developing legislative proposals that would implement those recommendations in the report not requiring additional revenues to be placed in the Land and Water Conservation Fund.

Although the report indicates that accomplishment of the 10-year program would involve substantial additional revenues to the Fund, legislation to augment such revenues is not being offered at this time in view of the over all fiscal situation as presented in the President's 1968 budget.

This report is worthy of careful attention by the Congress and by the Executive Branch and by State and local agencies. It is my hope that from such consideration will evolve Administration and Congressional policies to overcome this vexing problem.





UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF OUTDOOR RECREATION  
WASHINGTON, D.C. 20240

IN REPLY REFER TO:

January 4, 1967

Hon. Stewart L. Udall  
Secretary of the Interior  
Washington, D. C. 20240

Dear Mr. Secretary:

In response to your assignment to me of last spring, there is transmitted herewith a report on "Recreation Land Price Escalation."

This is for your consideration in fulfilling the directive to you from President Johnson in his Natural Heritage Message of February 1966 to cooperate with other departments and agencies to "investigate procedures for protecting the Government against . . . artificial price spirals" associated with Federal land acquisition, particularly for water resource and recreational purposes.

This report was prepared by an inter-agency committee of the Department of the Interior after consultation with representatives of concerned agencies outside the Department and with staff members of both Senate and House Appropriations and Interior and Insular Affairs Committees.

The basic conclusions of the investigation are:

- (1) prices for recreation lands and waters are increasing rapidly,
- (2) the most effective means of controlling land price escalation is to acquire needed lands promptly following authorization,
- (3) the Land and Water Conservation Fund is inadequate as presently conceived and financed to meet outdoor recreation needs during the critical decade ahead, and
- (4) the Land and Water Conservation Fund should be augmented by additional revenues from new sources in order to close the gap between estimated needs and prospective revenues.

The study disclosed that land values generally throughout the Nation are rising on the average of 5 to 10 percent annually. The cost of lands suitable for public recreation use is rising at a considerably higher rate. The point at which Federal interest has the greatest effect upon land values is at the time the project is authorized. Speculative land activity has occurred in numerous proposed and authorized public recreation areas.

Land price escalation is primarily the result of:

- (1) a rising trend in land values generally throughout the Nation,
- (2) keen competition between individuals, developers, and public agencies for prime recreation lands, particularly those which are water-oriented, and
- (3) the upgrading of lands as a result of change in land use, i.e., in many cases from agricultural lands to prime recreation land with frontage on the water or easy access thereto.

The rising trend in the value of land suitable for outdoor recreation is expected to continue in view of the rapid growth in population and the increasing scarcity of land for all purposes.

The rapid rise in land prices combined with a number of other factors has placed a strain on the Land and Water Conservation Fund. The 89th Congress alone authorized the establishment of 23 new Federal recreation areas involving the acquisition of about 250,000 acres at an estimated cost of \$119 million. The appropriation authorization ceilings of numerous areas authorized by previous Congresses are now inadequate to meet the needs due in part to rising cost of land. Key inholdings need to be acquired. Additional important and nationally significant areas should be authorized. Recent Court awards for Federal areas acquired by condemnation have exceeded by far the appraised price of the land at the time of the declaration of taking. Other condemnation suits are pending.

The States and their political subdivisions are faced with escalation problems in their acquisition programs similar to those of the Federal Government. Their development needs are also pressing.

Combined Federal and State outdoor recreation needs during the next ten years (FY 1968-77) are estimated to be about \$3.6 billion in 1966 dollars. If price escalation were included in this estimate, the needs would be 40 to 50 percent higher for the period.

The Land and Water Conservation Fund now derives revenue from (a) admission and user fees at Federal recreation areas, (b) net proceeds from the sale of Federal surplus real property, and (c) the Federal tax on motorboat fuels. Revenues to the Fund from these sources are currently running about \$115 million annually. They are expected to total nearly one billion dollars during the FY 1968-77 decade.

It seems fairly clear that the Land and Water Conservation Fund will fail to meet minimum program needs over the next 10 years by possibly \$2.7 billion, considering both Federal and State needs.

Prospective deficits in the Land and Water Conservation Fund, as presently conceived and programed, are shown below.

# PROSPECTIVE NEEDS, REVENUES, AND DEFICITS

(Billion Dollars)

	FY 1968-77 <u>Needs</u>	FY 1968-77 <u>Revenues</u>	<u>Deficit</u>
Federal	\$1.1	\$ .4	— \$ .7
State	2.5	.5	— 2.0
	<hr/>	<hr/>	<hr/>
Total	\$3.6	\$ .9	— \$2.7

If a price increase of 10 percent per year for recreation lands is accepted as a reasonable escalation factor, the net effect would be to increase the above estimated Federal needs from \$1.1 to about \$1.5 billion and the total estimated deficiency from \$2.7 to about \$3.7 billion.

The report contains 11 first and second priority recommendations for Federal action. Of these steps that could be taken to help alleviate the situation, perhaps three stand out:

- (1) Continuing expenditure authority to be granted by Congress through the appropriation process that would permit a Federal agency to contract for the purchase of land when the area first is authorized by the Congress. Much of the price escalation occurs subsequent to Federal authorization, at which time the Federal interest becomes paramount.
- (2) Putting into the Land and Water Conservation Fund approximately an additional \$100 million a year from unearmarked Outer Continental Shelf (plus any amounts in escrow released in the future to the United States) and other mineral leasing receipts which now go into miscellaneous funds of the Treasury. Inclusion of unearmarked National Forest receipts would add another \$80 million a year.
- (3) Utilizing the \$480 million of advance appropriation authorization currently available in the Land and Water Conservation Fund within the next five years.

These additional revenues to the Land and Water Conservation Fund would overcome the ten-year deficit between outdoor recreation needs and prospective revenues and are summarized as follows:

	(Billion Dollars)
Estimated total deficit, FY 1968-77	— \$2.7
Proposals for overcoming deficit, FY 1968-77	
(1) Advance appropriation now authorized	+ .5
(2) Unearmarked Interior mineral receipts	+ 1.5
(3) Unearmarked Forest Service receipts	+ .7
	<hr/>
Total	+ \$2.7

The additional revenues proposed to be deposited in the Fund plus the full amount of advance appropriations now authorized would raise the total revenues during the 10-year period to an estimated \$3.6 billion.

Legislative proposals to implement these recommendations have been prepared.

This level of financing would be adequate to meet projected needs and would permit the adoption of a "buy now" policy at recently authorized Federal recreation areas. The most effective way to minimize land price escalation is rapidity of purchase following authorization.

The recommended steps would permit the acceleration, and virtual completion within three years, of the acquisition programs already underway at recently authorized Federal areas such as the --

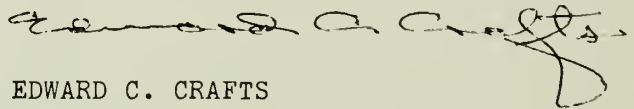
Delaware Water Gap NRA, Pa.-N.J.  
Indiana Dunes NL, Ind.  
Whiskeytown-Shasta-Trinity NRA, Calif.  
Assateague Island NS, Md.-Va.  
Cape Cod NS, Mass.  
Fire Island NS, N.Y.

Pictured Rocks NL, Mich.  
Guadalupe NP, Tex.  
Cape Lookout NS, N. C.  
Spruce Knob-Seneca Rocks NRA, W.Va.  
Mt. Rogers NRA, Va.

The proposed program also would provide for some new areas that may be authorized such as the proposed Redwood National Park, some inholdings, preservation of scenic rivers, and a nationwide system of trails, as well as acceleration of the acquisition of key recreation areas in the National Forests, particularly those in wilderness areas and near metropolitan centers.

The States and their political subdivisions are faced with escalation problems in their acquisition programs similar to those of the Federal Government. The recommended program also would augment substantially the existing grant program to the States, and help keep balance between State and Federal responsibilities.

Sincerely yours,



EDWARD C. CRAFTS  
Director

Enclosure



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## INTRODUCTION

### Background of the Report

Escalation of real estate prices resulting from speculation and other causes at locations particularly where the Congress recently has authorized establishment of Federal recreation areas is a problem of great and increasing concern.

The President, in his Natural Heritage Message of February 1966 to the Congress, stated that "the spiraling cost of land acquisitions by the Federal Government, particularly for water resource and recreational purposes is a matter of increasing concern." He warned that "land for the use of the general public should not be burdened with the increased price resulting from speculative activities."

The President called upon the Director of the Bureau of the Budget, the Attorney General, the Secretary of the Interior, and the heads of the other agencies principally concerned "to investigate procedures for protecting the Government against artificial price spirals."

The Senate Committee on Interior and Insular Affairs, in its Report No. 1526, dated August 25, 1966, on amending the Act authorizing the Point Reyes National Seashore in the State of California, stated:

"The committee recognizes that this is at best a stopgap measure until the Congress and the executive agencies find an answer to the troublesome problem of escalation of land values in areas where national parks, national seashores, and national recreation areas have been either authorized or proposed for authorization."

Similarly, the House Committee on Interior and Insular Affairs, in its Report No. 2067, dated September 22, 1966, in considering the proposed amendatory legislation for Point Reyes National Seashore, stated:

"The problem of soaring land prices which Point Reyes presents is not peculiar to this particular area or, indeed, to the National Park Service. It exists at other newly authorized areas elsewhere in the country and every major land-acquiring agency of the Government is plagued by it. A large part of the problem seems to stem from the fact that, once it is known that a given area is being considered for public development—whether it be a recreation area, a reservoir site, an airport, or what have you—the spotlight is on it, people who had never given it a thought begin to see its desirability, and promoters and out-and-out speculators move in.

"The Committee is very much concerned about these developments and was glad to be informed that the problem is being studied intensively by the Bureau of Outdoor Recreation. It is its hope that some workable suggestions can be developed and presented by the administration for committee consideration early next year."

The House Committee on Appropriations, in its Report No. 1405, dated March 31, 1966, on the appropriations bill for the Department of the Interior and Related Agencies for fiscal year 1967, indicated that it was "increasingly perturbed at the escalation of land prices in areas designated for acquisition under the Land and Water Conservation Fund as a result of extensive operation of land speculators." The Committee further pointed out that "from the moment authorization is enacted . . . a period of from two to three years elapses before funds are available for acquisition of this land and the agency has completed the long drawn out and involved negotiations for the purchase of land. In the meantime, land speculators have entered the picture. . . ."

The Committee also requested the Department of the Interior to give immediate attention to the problem of price spirals "with a view to proposing remedial legislation at the earliest possible moment that will more effectively protect the interests of the Government in this connection."

Similarly, the Senate Committee on Appropriations, in reporting on the Department of the Interior and Related Agencies appropriations bill for fiscal year 1967 on May 10, 1966, expressed its concern that "because of the numerous purchases which have recently been authorized for Federal recreational facilities it appears desirable to the Committee that the maximum amount possible be made available to accomplish these purchases. This is especially necessary, it is felt by the Committee, in view of rapidly rising land prices."

In early 1966, Chairman Wayne N. Aspinall of the House Interior and Insular Affairs Committee pointed out the problem as follows in his testimony before the House Appropriations Subcommittee on the Department of the Interior budget for fiscal year 1967:

"Another factor in the rising costs of land acquisition which are being experienced between the time of authorization and the ultimate appropriation by the Congress is the natural increment of speculation. A greater effort must be made to prevent speculative profits which have as a basis primarily

the promise of investment by the Federal Government. The answer is not a simple one—but it is time for us to make an effort to determine if there is any way by which we can protect the interest of the taxpayer against unconscionable profits as we continue to go forward with these acquisition programs.

“One step in the right direction, Mr. Chairman, in resolving these problems, appears to be to follow up authorization of projects with the necessary acquisition funds as rapidly as possible. This should have the effect of protecting the taxpayer and, at the same time, permit existing landowners to dispose of, and recover the value of, their property which they cannot use or develop as they wish because it is within the taking area.”

In late spring of this year, the Secretary of the Interior directed that a Departmental study of the escalation problem be undertaken under the leadership of the Bureau of Outdoor Recreation. The purpose was to provide a basis for Executive Branch legislative proposals to resolve the problem of escalation of land values in areas where public parks, seashores, and other recreation areas are being acquired or have been authorized or proposed for authorization.

The study committee consisted of representatives of the Office of the Assistant Secretary for Public Land Management, the Office of the Solicitor, the National Park Service, and the Bureau of Outdoor Recreation.

In August 1966, meetings were held with Federal policy-level officials of the Forest Service, Department of the Army, Bureau of the Budget, Department of Housing and Urban Development, National Park Service, and Bureau of Sport Fisheries and Wildlife to obtain their guidance and counsel in the resolution of the escalation problem. Meetings were held also with staff representatives of the Senate and House Committees on Interior and Insular Affairs and Appropriations for the same purpose.

## Scope of the Report

This report deals not only with the problem of land price escalation at the Federal level, but also with that faced at State and local levels in the acquisition of lands suitable for recreation development. Any broad-scale and effective attack on land price escalation must include the cooperative and joint efforts of State and local public bodies. In general, the principles involved

are the same regardless of the levels of government.

The report first takes a look at the escalation situation in terms of general land price trends—nationwide, regional, urban, and rural. It then explores land price escalation as it has developed or is developing in Federal recreation areas administered by such Federal agencies as the National Park Service, the Bureau of Sport Fisheries and Wildlife, the Bureau of Reclamation, the Forest Service, and the Tennessee Valley Authority. Finally, it touches on similar problems as faced by State and local agencies.

The report discusses the inadequacy of the Land and Water Conservation Fund to acquire lands in existing, newly authorized, and proposed Federal recreation areas over a 25-year period. The States have more flexibility in the use of their share of the Land and Water Conservation Fund because they could devote a substantially larger percentage of their allocations to acquisition and a smaller percentage to development than they are currently doing. Thus, if the escalation problem becomes increasingly acute, the States have an administrative flexibility not enjoyed by the Federal agencies. However, since total State and local needs exceed available Fund totals by large amounts, this is not too valuable a tool.

Anticipated revenues from current income sources are analyzed in the light of past experience. Additional funding sources are explored and estimated.

## Limitations and Recommendations

Five first priority and six second priority recommendations are made for resolution of the escalation problem. Other alternatives are discussed but are not translated into specific recommendations.

The question of escalation in real estate prices for recreation lands is complex and difficult to resolve in a practical manner in the light of Federal budgetary, legislative, and administrative limitations.

In addition, State and local governments frequently fail to face up to the problem and, in some instances, take actions which actually aggravate it.

Further and more exhaustive exploration would undoubtedly result in modification of this report.

One area that deserves further examination is the need for better coordination between Federal programs, including determination of whether some Federal loan or other programs are aggravating the land escalation problem.



## FINDINGS AND CONCLUSIONS

There has been a steady upward trend in land values almost everywhere in the Nation. Land values appear generally to be rising, on the average, from 5 percent to 10 percent annually. And the prices of lands suitable for public recreation use and administration are rising at a considerably higher rate.

A 7 percent annual rate of increase in land prices will double the cost in 10 years. At this rate, \$100 million would be needed a decade hence to buy what \$50 million will buy now. A higher rate of increase shortens the period during which the cost would double.

Speculation in land is occurring at numerous proposed and authorized public recreation areas. Land price escalation is primarily the result of:

1. A rising trend in land values generally throughout the Nation;
2. Keen competition between individuals, developers, and public agencies for prime recreation lands, particularly those which are water-oriented; and
3. The upgrading of lands as a result of change in land use, i.e., in many cases from normal agricultural land to prime recreation land with frontage on water or easy access thereto.

With a fast growing population and increasing scarcity of land for all purposes, the steady and oftentimes spectacular increase in the value of land suitable for outdoor recreation is expected to continue.

The point at which Federal interest has the greatest effect upon recreation land values is when Congress authorizes new Federal acquisitions.

The rapid rise in land prices has placed a strain on the Land and Water Conservation Fund revenues. Newly authorized areas in 1966 place an additional burden on the Fund. Further demands on the Fund will undoubtedly be made in the future if the urgently needed areas, such as the proposed Redwoods National Park, Scenic Rivers Systems, and Nationwide Trails System, are authorized and as State and local governments gear their programs and appropriations to more adequately meet expanding needs.

Existing Land and Water Conservation Fund revenues are inadequate to meet either Federal or State land acquisition needs. During fiscal years 1968-1977, it is estimated that the Federal share based on 40 percent of Fund revenues for Federal land acquisition purposes will fall short of needs by about \$722 million

(in terms of 1966 prices). At the same time, revenues for State and local programs will fall short by at least \$1.9 billion.

Additional funds are needed if public land and water acquisition needs for recreation purposes are to be met and if the escalation problem is to be resolved.

The deposit of unearmarked receipts from leasing of minerals on Outer Continental Shelf and other public lands and from national forests and grasslands into the Fund and the provision of advance appropriations for later repayment to supplement revenues have merit in continuing an established and fiscally sound method of providing the increased funding needed.

Consideration was given to other methods of financing, such as the use of long-term contracts with landowners, the issuance of tax-free Treasury bonds, and river basin commission bonding authority. However, in view of the objection to these approaches as being "back-door" financing, none of these are recommended at this time.

Several Federal agencies now have authority to incur obligations and to enter into contracts in advance of appropriations. Under the Federal highway program, for example, the Secretary of the Interior may contract in advance of appropriations for the purchase of lands in connection with the construction of Indian reservation roads, parkways, and public land highways not to exceed the amount authorized to be appropriated for these purposes. The Bureau of Public Roads and the Forest Service have similar authority. Although this approach may also be challenged as being "back-door" financing, it has merit. It will permit the head of the administering Federal agency to contract with as many landowners as possible immediately following project authorization and to fix the value of the land at the time of the contractual agreements.

A related but probably more practical alternative is continuing expenditure authority. A form of continuing expenditure authorization is available for the Helium program and the Upper Colorado River Basin Fund. Under this approach, Congress would authorize, through an appropriation act, a level of expenditure of money for the Land and Water Conservation Fund which could be made without further appropriation for acquisition of recreation lands and waters. Any amount so specified by the Congress could be modified from time to time in subsequent appropriation acts, and would be subject each year to review by the appropriation committees.



State and local governments could, if they would, contribute greatly toward controlling the speculative aspects of the land escalation problem. Local zoning authorities may be reluctant at times to act. In view of the public interest, and in the event local zoning authorities fail to zone the area within a reasonable period of time—one year, for example—the head of the administering Federal agency might be empowered to zone land use within the boundary of the Federal recreation area in keeping with the purposes of the authorizing act. However, this approach raises serious constitutional questions.

A number of other approaches in the effective resolution of the escalation problem were examined in the report. Several of these were found to be meritorious and are recommended.

There is need for flexibility in the Federal land acquisition program. Federal recreation areas are sufficiently different to warrant selectivity in the use of approaches. A variety of tools should be made available to the head of administering Federal and other public agencies.

One further recourse remains to the public acquiring agency. This is a decision, in certain cases of flagrant speculation or lack of local cooperation, to cease attempts to purchase lands and waters that have been authorized and to withdraw from efforts to place into public recreation use areas that have been authorized for public acquisition by Federal or State legislatures. This should be done only in extraordinary situations where either negotiated prices or court awards in condemnation cases have risen substantially beyond reasonable appraisals. This recourse, of course, inevitably results in a long-range sacrifice of the public interest and is in effect an admission of failure to progress toward a national objective of making available for present and future generations needed public lands and waters for scenic, recreation, and natural beauty purposes.

Most of the approaches to the escalation problem require substantial sums of money. When Federal recreation areas are authorized, the only sensible thing to do is to acquire them as quickly as possible. Any delay means a higher cost to the public or the loss of needed recreation areas.

## RECOMMENDATIONS

### First Priority Recommendations

1. Adopt a budgetary policy recommending an annual appropriation for the fiscal years 1968-1972 which, in total, utilizes the existing advance appropriation limitation authority of the Land and Water Conservation Fund Act to supplement the current "full-funding" policy of annually appropriating total revenues in the Fund. At the end of the 5-year period, consideration of an increase in the advance appropriation authority may be necessary if substantial program needs remain unmet.
2. Amend the Land and Water Conservation Fund Act to authorize the deposit into the Fund of all those receipts from public lands received pursuant to the mineral leasing laws (except receipts from lands within naval petroleum reserves) and the Outer Continental Shelf Lands laws and from national forests and national grasslands which currently go into miscellaneous receipts of the Treasury.
3. Amend the Land and Water Conservation Fund Act to authorize, for a 10-year period, that money covered into the Fund may be expended without further appropriation for the acquisitions specified in section 6 of the Act. Such expenditures could not exceed the amount specified in an appropriation act initially for each fiscal year, and the specified amount could be modified from time to time in subsequent appropriation acts. Such authorized amounts should be within the allocation of money to Federal purposes and could not be used unless such acquisitions were otherwise authorized by law. This would provide a limited continuing expenditure authority and would permit acquisition agencies, following authorization, to move in effectively on key tracts without the many months of delay that are now prevalent. (A draft bill embracing this recommendation and recommendation 2 is provided in Appendix I.)
4. Adopt a limited budgetary policy of appropriating funds to the Bureau of Outdoor Recreation for allocation to acquiring Federal agencies on an emergency case-by-case basis for recreation planning and acquisition in newly authorized Federal recreation areas threatened by adverse develop-

ment. Land acquisition planning requires from 12 to 18 months to complete. This planning and acquisition start, ahead of the normal lag between authorization and appropriation, would alleviate the escalation problem to the extent of at least the current annual land price escalation rate of 5 to 10 percent.

5. In each act providing for the establishment of a Federal recreation area, authorize the head of the Federal agency to zone lands within the area in the event local zoning authorities fail to zone land uses to permit only such development that is compatible with the purposes of the Federal recreation area. This proposal may raise serious Constitutional questions.

Authorization to zone in the area peripheral to Federal areas is being developed and is believed to have considerable potential.

### Second Priority Recommendations

6. Provide in the act authorizing a new Federal recreation area for the use by the Federal court of a tribunal of disinterested commissioners selected from areas other than from the locality wherein the land sought to be condemned lies to determine the value of land being taken and to determine the compensation to be paid in condemnation proceedings. There is a precedent for this technique in acquisitions by the Tennessee Valley Authority.
7. Encourage the President's Council on Recreation and Natural Beauty and the President's Citizens Advisory Committee to:
  - (a) Investigate and recommend to the President the need for any coordinating action between Federal agencies and programs in order that Federal loan or grant programs will not be used in a manner that aggravates the land price escalation problem.
  - (b) Promote the purchase by philanthropic organizations of key recreation lands to be held for future Federal, State, or local public acquisition or development.

8. Enact the proposed National Park Foundation legislation to encourage the donation of land or money for the purchase of recreation lands to be administered by the National Park Service.
9. Enact legislation to authorize the heads of Federal agencies to accept and use donations of land and interest therein or money for land acquisition recreation purposes; the Forest Service has limited authority to accept donated funds.
10. Authorize and utilize acquisition by the Federal Government of recreation lands in fee and the lease-back or sell-back of unneeded lands or interests therein, when appropriate.
11. As a managerial policy, acquire all key lands in a newly authorized Federal recreation area prior to the construction of access roads and recreation facilities. The purpose of this policy is to forestall through Federal development the escalation of the value of private inholdings.

# THE RISE IN LAND PRICES

## The Basic Problem

The cost of acquiring land in existing and authorized Federal recreation areas is becoming increasingly higher and, in some cases, startlingly so. This poses a very real threat to the future of Federal land acquisitions for recreation and to the basic funding sources for such acquisitions, such as the Land and Water Conservation Fund.

In some instances, owing in part to price escalation, the authorized ceilings for the purchase of lands for Federal recreation projects have been reached before the needed lands have been acquired. For example, a ceiling of \$14.0 million was established by the Congress in the enabling act for Point Reyes National Seashore, California. Recently, in testimony before the Senate Interior and Insular Affairs Committee, the National Park Service supported a request to raise the ceiling to \$57.5 million, an amount over four times the original authorization ceiling. As a stopgap measure, the Congress raised the ceiling by about \$5.1 million. A ceiling problem also is encountered in 18 other National Park Service projects. Ceilings on still other projects, particularly those recently authorized, may soon be reached and, in many cases, long before projected land acquisition programs are completed in the areas involved.

No simple answer to the land escalation problem exists. The underlying causes are both varied and complex. Some of the more important ones are examined below.

## General Land Values and Trends

It is clearly evident that there has been a steady upward trend in land values almost everywhere in the Nation. On the basis of the best available information, land values are rising generally throughout the Nation at a rate of from 5 percent to 10 percent per annum. This general range of increases in land values over the past several years is indicated by various Federal agencies' experience as follows:

### *Estimated Average Annual Increase in Land Values*

National Index for Farm Real Estate (Economic Research Service, Department of Agriculture)-----	6%
National Highway Road Programs (Bureau of Public Roads)-----	7%
FHA Financed Homes-----	8%

TVA Lands-----	9%
Corps of Engineers-----	6%
National Park Service-----	5-10%

There is, of course, considerable regional, State, and local variance from these national trends. This is borne out in the data on the value of farm real estate published periodically by the Economic Research Service, Department of Agriculture. Figures 1 and 2 tabulate and summarize the relative changes in the farm real estate index by major farming regions and by States. Figure 1, for example, shows that, during the 1960-1966 period, California increased 71 percent (10 percent annually); Texas increased 65 percent (9 percent annually); Wyoming increased 48 percent (7 percent annually); and Indiana increased 44 percent (6 percent annually). Since farm real estate is quite often the kind of land which is being sought for recreation purposes, the indices provided by the Economic Research Service may at least be indicative of the general trends in recreation land values throughout the country.

The only readily available data on the per-acre value of land for recreational purposes are also provided by the Economic Research Service. As shown in Table 1, the estimated value per acre of recreational land having direct access to water was about \$1,370 nationally in March 1965. At the same time, the value of recreational lands without access to water was \$530. The range of water-associated recreational lands was from \$450 per acre in the "Spring Wheat"<sup>1</sup> region to \$4,410 in California.

It is against this background of general land value rise that all levels of government and private interests are acquiring land for recreation purposes. Assuming that the price of lands for outdoor recreation purposes follows the same general national trends indicated above, it would double every 12 years at 6 percent compounded annually; every 10 years at 7 percent; and every 3.5 years at 20 percent. Hence, these so-called "normal" price increases in land can, over a relatively short period of time, seriously deplete or throw completely out of kilter programed or authorized funds for land acquisition or even estimates made a number of years earlier.

<sup>1</sup> As defined by the Economic Research Service, this region is composed of the northern half of Montana, North Dakota, the northern half of South Dakota, and the northwest portion of Minnesota.



Figure 1

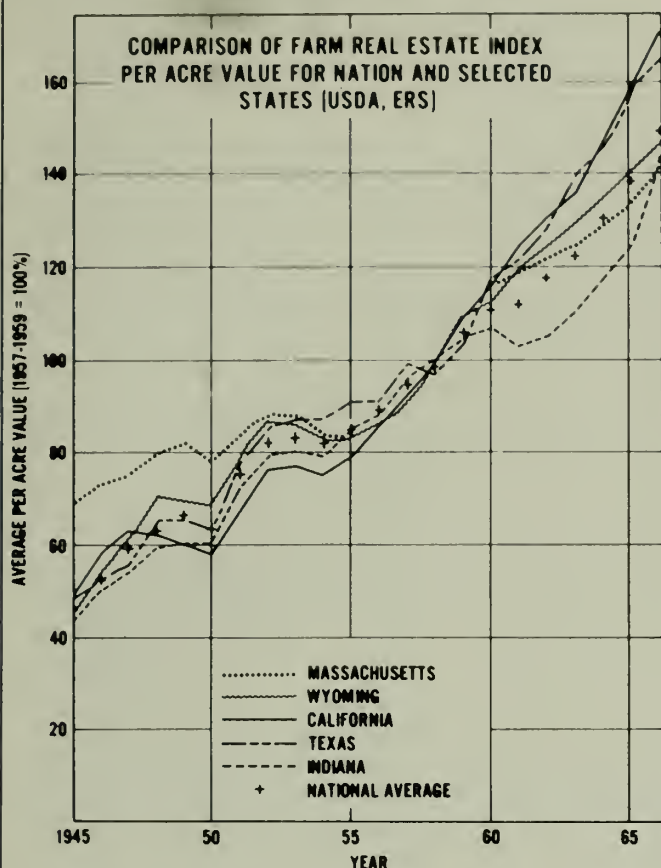


Table 1

Estimated Per Acre Value of Recreation Land by Farming Region;  
Comparing Lands With and Without Direct Access to Water, March 1965

Region	Without Water		With Water	
	Range	Most Frequent	Range	Most Frequent
Northeast	\$190 - \$720	\$410	" "	"
Eastern Dairy	370 - 540	410	\$1,020 - \$1,860	\$1,410
Lake States Dairy	350 - 570	460	1,050 - 2,200	1,460
Lake States Cut-Over	220 - 360	270	" "	"
General Farming	330 - 600	390	860 - 1,490	1,130
Eastern Corn Belt	500 - 760	640	870 - 1,630	1,230
Western Corn Belt	300 - 540	360	560 - 950	670
Spring Wheat	170 - 300	210	450 - 780	560
Eastern Cotton	490 - 790	650	910 - 2,090	1,530
Central Cotton	270 - 500	320	930 - 1,610	1,220
Western Cotton	300 - 520	460	600 - 1,160	890
Burley Tobacco	" "	"	" "	"
Eastern Tobacco	540 - 1,090	800	1,510 - 2,870	2,290
Northern Range Livestock	420 - 770	560	1,420 - 2,820	2,000
Southern Range Livestock	320 - 700	530	760 - 1,520	1,190
Northwest Dairy	490 - 1,240	800	1,240 - 2,390	1,580
California	1,210 - 2,380	1,670	2,440 - 4,410	3,610
Gulf Coast	" "	"	" "	"
Florida	420 - 680	570	590 - 1,240	740
All Others	500 - 800	610	950 - 1,800	1,230
United States		530		1,370

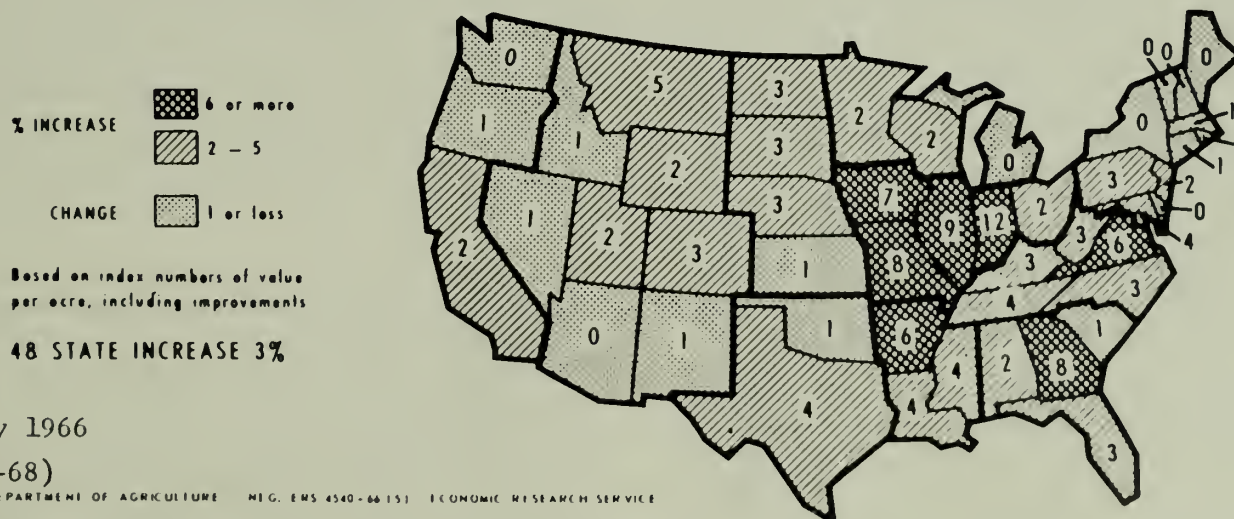
\* Sample too small, included in All Others

Source: Preliminary data, USDA, ERS

Figure 2

## CHANGE IN DOLLAR VALUE OF FARMLAND

Percentages, November 1965 to March 1966



Sharp value advances in the Central Corn Belt States in the 4 months ended March 1, 1966, together with continued strength in market prices in the Southeast, raised the national index of average value per acre as of March 1 to 150 (1957-59 = 100). The largest increase for the 4-month period occurred in Indiana, 12 percent. Other States showing major increases were Illinois, 9 percent, and Missouri and Georgia, each 8 percent. The March 1 national level was 3 percent above November 1965 and 8 percent above a year earlier. These are somewhat larger increases than have occurred in comparable periods of previous years.

## Land Speculation

A second factor causing higher costs for recreation land is land buying for speculation purposes in proposed or newly authorized Federal recreation areas. For example, an advertisement appeared in the August 28, 1966, issue of the *Newark Sunday News* entitled "How YOU Can Make Money at Blue Mountain Lakes." Blue Mountain Lakes is a new subdivision in the newly established Delaware Water Gap National Recreation Area in New Jersey. Prospective buyers were being enticed to purchase lots with the expectation of earning a profit. The advertisement stated, "Persons purchasing land now may expect to earn a profit between their purchase price and the 'fair market value' which the Government may pay at the time of acquisition. Land prices have been going up throughout Sussex County and are expected to continue this upward trend."

But what about speculation? At precisely what moment does it have its greatest impact on land values? Is it triggered when Federal interest first becomes public knowledge, when bills are first introduced, when legislation is enacted authorizing a new Federal recreation area, when the first land purchases are made, or at what stage? Appropriate counter measures to minimize or prevent land speculation will depend, to a large extent, on answers to these questions.

One of the contributing difficulties to analyzing the impact of "speculation" is the lack of a clear-cut definition of what constitutes speculation. Speculation means different things to different people; there is no recognized legal or administrative definition of the term; and in real estate transactions it often connotes unethical practice.

Unfortunately, there are few data and well documented case studies to pinpoint the timing or substantiate the real impact of this type of activity on the cost of Federal land acquisitions. Large Federal land acquisitions for recreation are still too new or recent to have developed a meaningful body of data as to the real role speculation plays in these areas, nor have Federal agencies concerned endeavored to gather and analyze recreation land cost data on a systematic basis.

However, most areas have at least some tracts of land which have undergone a series of changes of ownership and land use over a period of years and on which sales data and other information are available. Although scattered and often only a few acres in size, such tracts at least illustrate some of the basic characteristics and trends of land escalation occurring in these areas. One such example is a 309-acre tract of land in

the Ashley National Forest in Utah, an area now within the proposed Flaming Gorge National Recreation Area. The sequence of events outlined below relates the sale of this property to the expression of Federal interest over a period of years.

April 1956	Flaming Gorge Dam and Reservoir authorized by Congress.
January 1958	Bureau of Reclamation appraised the 309 acres at \$12,000 or an average of about \$39 per acre.
September 1959	Bureau of Reclamation purchased 195 acres for \$8,450, or about \$43 per acre. The 114 acres left were valued at \$3,550, or \$31 per acre.
November 1962	Flaming Gorge Reservoir started filling.
1963	Flaming Gorge Reservoir completed.
January 1963	Administration recommended legislation to establish a Flaming Gorge National Recreation Area.
July 1964	Senate bill S. 3054 introduced to establish the Flaming Gorge National Recreation Area. Reintroduced in January 1965 as S. 92.
December 1965	The State paid \$13,187 for 14.2 acres at an average value of about \$929 per acre.
April 1966	Forest Service appraised remaining 99 acres at \$42,500 or about \$429 per acre.

The above data show that the average value per acre of this property has increased from about \$39 at the time of the original appraisal by the Bureau of Reclamation in January 1958 to \$429 per acre, or a 1,000 percent increase, at the time of the last appraisal by the Forest Service in April 1966. In fact, a small section consisting of 14.2 acres was actually sold to the State in 1965 at an average price of \$929 per acre. Obviously, this particular tract of land has experienced a tremendous increase in value.

Actually, the best documented case study of land escalation in a recreation area discovered during the course of the study was a non-Federal recreation area—the Pearl River Reservoir, near Jackson, Mississippi.

The study, "An Analysis of the Influence of the Pearl River Reservoir on Land Prices in the Reservoir Area," dated May 25, 1964, and prepared by a private contractor, was made for the Pearl River Valley Water Supply District, an agency of the State of Mississippi. It illustrates a well documented price increase following the announcement of a public recreation project. It also



shows how a public project—in this case a local reservoir—can greatly affect land values outside but adjacent to the project. Detailed analysis was made of 304 sales involving some 25,310 acres of land adjacent to or with good accessibility to the reservoir project between 1950 and May 1964. Analysis was also made for the same period of 101 sale transactions covering 11,141 acres in a comparable area not influenced by the project and which served as a “control” area. The average price paid per acre of lands adjacent to the project showed an average annual increase of slightly less than 9 percent prior to announcement of the project in March 1959. After the project was announced, prices increased 165 percent the first year, 191 percent the second year, 216 percent the third year, 236 percent the fourth year, and 258 percent for the first half of the fifth year (through May 15, 1964) when the study was concluded. The sales prices per acre for the control area from 1950 through 1964 continued to follow a normal price trend line. The speculative influence of the project upon prices paid per acre within the immediate area is clearly indicated.

With respect to developments in the Federal recreation areas, the National Park Service, Bureau of Sport Fisheries and Wildlife, and Bureau of Reclamation submitted information on prices paid for land or land values “before and after” Federal interest and acquisition occurred. For the most part, the data are sketchy, particularly in sales, which would establish land values for a period of years prior to authorization of the project or those which indicate relative value of comparable lands outside the project. Availability of data from other Federal agencies, such as the Corps of Engineers, Bureau of Public Roads, Forest Service, and Tennessee Valley Authority, is equally scattered and spotty. All have information in their files on the agency’s land acquisition experience. However, it has seldom been analyzed, or it is concerned with Federal programs which are not necessarily comparable with outdoor recreation.

The data obtained from the National Park Service, indicate that the most pronounced increases in the value of land occur at about the time of project authorization. However, the increases are far less than that experienced in the aforementioned Pearl River Reservoir area, and the sales data do not readily group themselves into sharply defined patterns of price increases.

Data from the Bureau of Sport Fisheries and Wildlife would seem to confirm that agency’s conclusions that the Federal interest in acquisition has had little or no

effect on land values either within or outside the proposed acquisition area, at least during the time of acquisition. The Bureau points out that its appraisals show that price increases can almost always be accounted for by the general price increase in nearby localities, plus such other factors as new building improvements, physical changes in land use, urbanization influences, etc.

Corps of Engineers’ experience indicated that there is normally very little accelerated escalation of land prices within a Corps of Engineers project boundary. However, there are speculation and steep escalation in value of lands immediately outside the project boundary, as might be expected, since these are lands which front the reservoirs or have good access to them and offer good summer or vacation home sites and other water-based recreation opportunities. Table 2 illustrates the percentage of change in values of adjoining property in connection with six Corps of Engineers projects.

This points up one factor underlying price escalation in Federal recreation areas which is not speculative in the ordinary sense of the term. The unique qualities which make lands attractive for inclusion in proposed Federal recreation areas also appeal to private investors and developers irrespective of Federal interest in them. The demand of private citizens for vacation home sites and for lands directly associated with water-based recreation opportunities is well known. This strong demand and competition in the market place for prime recreation lands also are causing prices to spiral. The Federal Government’s entering the picture adds to the competition. Result—even higher prices.

A study made by the Bureau of Outdoor Recreation about 2 years ago on the tourism-recreation potential of the West Virginia Eastern Panhandle area noted the very strong competition and resultant price escalation for prime recreation lands in that area by private individuals and developers from the nearby urban metropolitan areas of Washington, Baltimore, and Pittsburgh. A study in depth of land price trends in this area, particularly as they may relate to the newly established Seneca Rocks-Spruce Knob National Recreation Area and the pressures of large urban areas on outdoor recreation areas, would be extremely useful in gaining needed insights in this aspect of price escalation, as well as the role of the Federal Government in meeting outdoor recreation needs of this nature.

The Department of Housing and Urban Development provided the committee informally with data on the problem of land inflation as it affects the Development of Housing and Urban Development-assisted open space

Table 2

Results of Remainder Value Studies —  
Percentage of Change in Values of Property Adjoining Corps of Engineers Reservoirs

Norfolk Project, Ark. and Mo.	100%	1940	404%	1965
Beaver Project, Ark.	100%	1960	134%	1965
Bull Shoals Project, Ark. and Mo.	100%	1945	300%	1965
Table Rock Project, Ark. and Mo.	100%	1958	535%	1965
Dardanelle Project, Ark.	100%	1960	800%	1965
Greers Ferry Project, Ark.	100%	1960	800%	1965

Source: Financial and Statistical Reports on Recreational Facilities for Norfolk, Beaver, Bull Shoals, Table Rock, Dardanelle, and Greers Ferry Reservoir Areas, dated 1965, U.S. Army Engineers.

programs in urban areas. It reached the following conclusions:

Prices paid by those agencies for open space land in the suburban and urban fringe areas of eight metropolitan areas rose approximately 15 percent over the original estimates of value made prior to acquisition.

The cheapest land (usually located in the urban fringe) tended to rise in price faster and at a steeper rate when plans for large acquisitions became generally known. On the other hand, higher priced land in the more immediate suburban areas tended to show only a gradual inflation, following land price trends in the same general area, but not reflecting large price increases due to the acquisition plans of the acquiring agencies.

These agencies which moved most rapidly (beginning immediate acquisition as soon as site plans are firm) acquired land more cheaply than agencies which staged negotiation over a long period of time.

Among the most spectacular and widely known examples of rising land costs are those which have occurred along ocean frontage along the Atlantic Ocean. A prime example is Ocean City, Maryland, which lies just to the north of the newly established Assateague Island National Seashore. Here is what happened to just two lots:

*Case 1:* 250' X 534.4' unimproved block on ocean, north Ocean City, Maryland.

<i>Date of Sale</i>	<i>Price</i>
1941	\$ 3,000
1958	50,000
1965	225,000

*Case 2:* 50' X 142' unimproved block as Case 1.

<i>Date of Sale</i>	<i>Price</i>
1952	\$14,500
1955	18,000
1964	30,000

### Conclusions

Despite the fragmented and incomplete nature of the data on rising land costs in proposed and authorized Federal recreation areas throughout the country, basically, the following conclusions can be drawn with respect to the land price escalation problem.

1. Land price escalation is primarily the result of:
  - (a) A rising trend in land values generally throughout the Nation;
  - (b) Keen competition between individuals, developers, and public agencies for prime recreation lands, particularly those which are water-oriented; and
  - (c) The upgrading of lands as a result of change in land use, i.e., in many cases, from normal agricultural land to prime recreation land with water frontage or easy access thereto.
2. The impact of Federal interest on land prices varies considerably from area to area, from little or none in wildlife refuges to moderate or high in some proposed national recreation areas.
3. Generally, the point at which Federal interest has the greatest effect upon land values appears to be at about the time of authorization of a project. However, no sharp, well defined pattern of price changes was evident from the data provided by the various Federal agencies.



The foregoing conclusions suggest:

First, the best method of minimizing Federal land acquisition costs is to acquire lands as quickly as possible.

Second, it is important that the acquiring Federal agency be in the best possible position to initiate the acquisition by purchase or condemnation of lands immediately upon authorization of the Federal recreation project. This means that, insofar as possible, the land acquisition planning, including compilation of ownership

data, topographic mapping, photogrammetric mapping, and gross appraisals, should be completed prior to authorization of the Federal project. It is also vitally important to have such land planning work done if the Federal Government desires to zone a newly authorized area or to proceed through condemnation to acquire all or many of the key recreation areas within the project area. Provided funds were available, the acquiring agency would be in a position to forestall any speculative interests in the area.

## RESOLVING THE ESCALATION PROBLEM

Seventeen different approaches to the effective control of the recreation land price escalation problem are examined in the following sections of the report. Sev-

eral of these are found to be meritorious at this time and are recommended.

### EFFECTIVE USE OF THE LAND AND WATER CONSERVATION FUND

There is growing concern being expressed by committees and individual members of Congress and the Administration as to the adequacy of the Land and Water Conservation Fund to meet the financial obligations to be imposed upon it. This concern is an outgrowth of a number of current circumstances and problems.

First, the Congress has authorized a considerable number of large Federal recreation areas during the past 6 years. Substantial acreages are to be acquired in many of them in order to establish and develop the kind of areas needed to meet public demand for outdoor recreation opportunities.

Second, a number of new Federal recreation areas are being actively proposed. Many of these proposed areas will require substantial land acquisition. Other areas are under investigation and "on the drawing boards." It is evident that substantial land acquisition may be required for many of these also if they are proposed and authorized.

Third, the monetary ceiling for land acquisition purposes on a number of existing Federal recreation areas needs to be raised if Congressional Acts establishing new areas are to be implemented. For example, the Congress was requested to raise the authorized ceiling on Point Reyes National Seashore from \$14.0 million to \$57.0 million. Based upon past experience, numerous other authorized monetary land acquisition ceilings may be reached prior to the completion of the land acquisition program.

Fourth, the concerned Congressional Committees have been alerted to the fact that there are 29 condemnation suits pending in the courts for lands in 14 National Park Service management units, as shown below:

Antietam National Battlefield Site, Maryland  
Blue Ridge Parkway, North Carolina and Virginia  
Cape Cod National Seashore, Massachusetts  
Cape Hatteras National Seashore, North Carolina  
Colonial National Historical Park, Virginia  
Fire Island National Seashore, New York

Fort Donelson National Military Park, Tennessee  
Gettysburg National Military Park, Pennsylvania  
Gloria Dei (Old Swedes') Church National Historic Site, Pennsylvania  
Herbert Hoover National Historic Site, Iowa  
Home of Franklin D. Roosevelt National Historic Site, New York  
Padre Island National Seashore, Texas  
Point Reyes National Seashore, California  
Yosemite National Park, California

If experience is any guide, awards in these cases will be substantially higher than the appraised values of the lands and the amounts deposited with the courts at the time the declaration of taking was filed. It is estimated that awards for the 29 pending cases may aggregate as much as \$50.0 million.<sup>1</sup>

Fifth, recent surveys show that the most urgent recreation needs are for facilities close to where people live, often within walking distance of home. These are usually concentrated near urban centers. Such needs are traditionally provided and managed by State and local governments. Here, costs are astronomical and greatly exceed local capabilities without substantial Federal help. A source of such Federal help is the Land and Water Conservation Fund.

And, finally, it is believed that the impact on the Fund of escalation of land values, irrespective of the causes, may turn out to be the most significant drain on the Fund's resources.

The nature of the future Administration program for land acquisition must be carefully considered and proposed Federal actions cast appropriately to resolve the problems. Otherwise, needed new Federal recreation

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<sup>1</sup> Three recent awards are illustrative of this situation. In the instance of Point Reyes National Seashore, the National Park Service deposited \$22,000 in the case of Bolemas Palisades Company, et al., and the court awarded \$1,350,000. In the case of Virginia Mullen, et al., in connection with Padre Island National Seashore, \$1,806,599 was deposited, and the court award was \$5,562,875. At Wright Brothers National Memorial, \$47,450 was deposited with regard to the Diane Frank, et al., case, and the court award was \$136,270.

areas may not be authorized until already authorized areas are acquired and established. Or, if it is felt that the cost of land acquisition is becoming exorbitant, in specific areas such as Point Reyes, the Congress or the Administration may stop further land acquisition by making no further appropriations available.

## Federal Land Acquisition Needs<sup>1</sup>

The adequacy of the Land and Water Conservation Fund can be assessed only in terms of the demands to be placed upon it to finance needs. The Fund has a 25-year life. What, then, are the estimated land acquisition needs for the programs of the National Park Service, Forest Service, and Bureau of Sport Fisheries and Wildlife?

For purposes of this study, the Federal land acquisition needs have been projected for the next 10-year period—fiscal years 1968 through 1977. This is the longest and most practical period for the assessment of Federal needs for the following reasons.

All needs for land for recreational purposes are directly related to public demand for outdoor recreation opportunities. All public agencies have much to learn about the long-range assessment and projection of this demand. However, a start has been made. All of the fifty States and United States Territories have comprehensive outdoor recreation plans in various stages of preparation or modification. The Bureau of Outdoor Recreation is also preparing a Nationwide Outdoor Recreation Plan which will assess and project demand for outdoor recreation on a national and regional basis.

Yet, despite the start, the information and techniques upon which to forecast in specific terms outdoor recreation needs beyond the next 10-year period are simply not yet available. Planning efforts and land acquisition plans should be concentrated on meeting needs during the next 10-year period. As better information and coordinated plans are developed, projections of land needed in each Federal management unit beyond 1977 can then be undertaken.

State acquisition and development programs, also urgently needed to meet day-to-day recreation deficiencies of the American people and which require Federal assistance several times greater than the cost of Federal areas, will also fall far behind mushrooming public needs unless solutions can be developed.

The total fund needs of the three Federal agencies which utilize the Land and Water Conservation Fund to finance land acquisition are estimated to be about \$1.1 billion for the next 10-year period. Table 3 shows the breakdown of the estimated amounts by program total and by each of the three Federal agencies for the 10-year period.

### National Park Service Needs

The National Park Service total fund needs are estimated to be about \$617 million. The amounts needed are for recently authorized areas, major new areas that may be authorized, awards by the courts in condemnation cases in excess of the amounts deposited, some existing authorized areas where monetary ceilings will be raised, scenic rivers, national trails, inholdings within existing units of the National Park System, and for possible new authorizations resulting from current studies, such as the Island Inventory, the survey of the Connecticut River Valley (Public Law 88-616), and the recreational evaluation of the Missouri River from Yankton to Fort Benton (Senate Interior and Insular Affairs Committee resolution dated February 17, 1966). Projection of fund needs by fiscal years is shown in Table 3.

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<sup>1</sup>“Needs” as discussed in this section relate to realistic and attainable Federal needs as evaluated in the light of prospective revenues to the Land and Water Conservation Fund, and with due consideration to the overall financial needs and resources of the Federal Government. As such, the “needs” presented here constitute a recommended program. Total needs of the agencies for acquisition of recreation lands and waters would be in the judgment of the individual agencies in most cases be considerably higher than the program needs as discussed in this section.



Table 3

Estimated Federal and State Outdoor Recreation Needs, Revenues to the Land and Water Conservation Fund from Presently Authorized Sources, and Amounts from Proposed New Sources, by Years during Period, F.Y. 1968-77  
(Million dollars)

	FISCAL YEARS										
	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1968-77
Estimated Federal Needs											
National Park Service	104 <sup>a</sup>	79	84	73	62	47	42	42	42	42	617
Forest Service	18	25	30	35	40	40	40	40	40	40	348
Bureau of Sport Fisheries & Wildlife	3	3	3	4	5	5	5	5	5	5	43
Administration & contingency	8	8	8	8	8	8	8	8	8	8	80
Total Federal Needs	133 <sup>a</sup>	115	125	120	115	100	95	95	95	95	1,088
Estimated State Needs (Federal portion only on 50/50 basis)	65	260	275	320	310	280	260	250	240	240	2,500
Estimated Total Federal & State Needs	198 <sup>a</sup>	375	400	440	425	380	355	345	335	335	3,588
Estimated Revenues to the Fund from existing sources											
Annual permit	5	5	6	8	9	9	9	10	10	10	81
Other admission & user fees	7	8	8	9	10	11	11	11	11	10	96
Motorboat fuel tax	31	32	34	35	37	13 <sup>b</sup>	<sup>b</sup>	<sup>b</sup>	<sup>b</sup>	<sup>b</sup>	182 <sup>c</sup>
Surplus real property	72	70	67	64	64	64	62	60	55	50	628
Total estimated revenue from existing sources	115	115	115	116	120	97	82	81	76	70	987
Utilization of advance appropriation authority	83 <sup>a</sup>	80	105	144	68	—	—	—	(38) <sup>d</sup>	(35) <sup>d</sup>	(914) <sup>d</sup>
Proposed new sources of revenue to the Fund											
Unearmarked Interior mineral receipts	—	100	100	100	100	100	100	100	100	100	900
Unearmarked National Forest receipts	—	80	80	80	80	80	80	80	80	80	720
Releases to the U. S. from Interior mineral receipts in escrow <sup>e</sup>	—	—	—	—	57	103	93	84	117	120	574
Estimated Total Revenues from existing & proposed sources	198	375	400	440	425	380	355	345	335	335	3,588

<sup>a</sup> Based on authorization of a Redwood National Park and a supplemental appropriation of \$56 million (utilizing the advance appropriation authority) for land acquisitions in the Park.  
<sup>b</sup> Under existing law, taxes relating to motor boat fuels will expire on 9/30/72. Hence, revenues to the Fund from that source for FY 1973 will be about \$13 million and, for subsequent years, there will be no revenues from this source.

<sup>c</sup> This amount would be about \$192 million more if the tax on motorboat fuels is extended beyond the present expiration date of September 30, 1972.

<sup>d</sup> Under existing law, any advance appropriations made in earlier years would be repaid beginning with FY 1976 by utilizing one half of the annual revenues to the Fund. Hence, only half of the amounts shown for FY 1976 and FY 1977 would be available for appropriation for outdoor recreation purposes, or a combined total of \$73 million less than the amount shown.  
<sup>e</sup> There is no way to determine now how much of the \$800 million of the revenues that have been collected from the Outer Continental Shelf and presently held in escrow pending court decision may be released in the future to the United States and how much to Louisiana. The amount which may be released to the United States may be larger or smaller than shown which is the additional amount needed to meet outdoor recreation needs.



Land acquisition funds needed for the newly authorized areas and for proposed areas were pro-rated over a 3-year period in order to minimize insofar as possible the effect of the general annual rise in land values.

The immediate problem facing the National Park Service is to obtain adequate funds to purchase rapidly the lands needed to establish a number of recently authorized Federal recreation areas, such as Delaware Water Gap, Whiskeytown-Shasta-Trinity, and Assateague.

### **Forest Service Needs**

The needs of the Forest Service for the corresponding period are estimated to be about \$348 million. The projected needs rise from \$18 million to \$40 million during the first 5 years and are projected at a level of \$40 million for the balance of the 10-year period. The program levels reflect the assumption that accelerated land acquisition should be carried out in such newly authorized areas as Spruce Knob-Seneca Rocks, Mt. Rogers, and Whiskeytown-Shasta-Trinity, within wilderness areas, and in national forests near urban centers. These estimated program levels are also based upon the assumption that the Forest Service will revise and update comprehensive outdoor recreation plans for all management units in the national forest system.

## **State and Local Acquisition and Development Needs**

For this same 10-year period, 1968 through 1977, the cost of acquiring and developing the recreation areas and facilities normally provided by State and local agencies will far exceed the land acquisition costs of the three Federal agencies covered by the Land and Water Conservation Fund Act of 1965.

A review of the comprehensive Statewide outdoor recreation plans submitted by the States to establish eligibility for acquisition and development grants under the Fund Act reveals an estimated capital cost of \$7.1 billion needed for acquisition and development projects. Of this total, approximately \$2.8 billion would be for State projects and \$4.3 billion for projects financed in part by local governments but, sponsored by the States. These figures may be conservative when one considers the growing demand for State and local public recreation facilities in or adjacent to urban centers where costs are greatest. Furthermore, these figures do not include any estimates for eight of the States and three Territories.

### **Bureau of Sport Fisheries and Wildlife Needs**

The land acquisition fund needs for the Bureau of Sport Fisheries and Wildlife are estimated to be \$43 million for the 10-year period. The estimates reflect the enactment of Public Law 89-699, Endangered Species Preservation Act. It also assumes that the Bureau will seek, under the authority in Public Law 87-714, to acquire additional lands in conjunction with the management and development of national refuges and fish hatcheries in order to provide the more traditional facilities, such as picnic tables, overnight camping sites, and beaches, needed for visitor use.

### **Unfunded Federal Needs**

Based upon experience to date and views of the Federal agencies concerned with revenues to the Fund, it is estimated that nearly \$1 billion from existing revenue sources will be deposited in the Land and Water Conservation Fund during the period 1968-77 (See Table 3). Of this estimated amount, the Federal agencies normally would be allocated \$365 million, based on a Federal share of 40 percent and existing sources of revenue. Consequently, there will be a shortage of about \$722 million required to meet estimated Federal land acquisition needs of over \$1 billion during the next decade unless additional sources of revenue are provided.

It is obvious that State and local governments will not meet needs of this magnitude over the next 10 years without Federal assistance.

A survey of expenditures in 45 of the 50 States shows State agencies spent an average of \$150 million on outdoor recreation capital improvements in each of the 3 years before passage of the Fund Act. Local public agencies in these same States spent an average of \$280 million annually for similar capital improvements during the same period. Since passage of the Land and Water Conservation Fund Act, capital expenditures for recreation averaged \$291 million State and \$335 million locally per year.

During this period about \$93 million of Fund money was allocated to the States. Additional Federal aid funds were made available through programs of the Departments of Housing and Urban Development and Agriculture. It appears, therefore, that the availability of Federal moneys both stimulated State and local expendi-

tures and also that State and local governments relied heavily on Federal aid.

Considering the State and local response to Federal incentives, a Federal cost-sharing pattern of 50 percent, and the various Federal aid programs available, it appears reasonable for the Land and Water Conservation Fund to plan for its share of meeting State and local needs at substantially less than half of the total need of

\$7.1 billion. Therefore, the programmed share of Federal needs from the Land and Water Conservation Fund has been arbitrarily reduced from \$3.5 billion by \$1 billion or a program objective of \$2.5 billion. The residual State needs of \$4.5 billion should be met by a combination of State and local financial sources and other Federal aids. The \$2.5 billion from the Land and Water Conservation Fund is programmed over 10 years in Table 3.

## Conclusions

It is concluded that:

1. Even at current prices, the Land and Water Conservation Fund may be inadequate by \$2.7 billion to meet Federal and State needs for outdoor recreation during the next decade. The deficiency is as follows:

	<i>FY 1968-77 Needs (Billion Dollars)</i>	<i>FY 1968-77 Revenues</i>	<i>Cumulative Deficit</i>
Federal	\$1.1	\$ .4	— \$ .7
State	2.5	.5	— 2.0
Total	\$3.6	\$ .9	— \$2.7

2. The advance appropriation authority, a total of \$480 million, should be utilized during fiscal years

1968-72 to help meet the deficiency between the Fund's total estimated revenues and needs.

3. A budgetary policy should be adopted to provide funds to permit, insofar as possible, the acquisition, within 3 years from the date of authorization, of all key lands in the specified Federal recreation areas.

4. Additional sources of funds are needed to augment the Land and Water Conservation Fund to meet the estimated needs for Federal and State outdoor recreation purposes during the 1968-77 period.

5. Limited continuing expenditure authority to permit the acquisition of key areas immediately following authorization and to prevent undesirable real estate and similar developments is essential.

## Contingency Factors

The Federal deficiency estimate shown above may be even greater based upon the following factors:

1. In the estimated deficiency, allowance for the present rate of escalation in recreation land prices of 10 percent a year is not included. The deficiency is calculated on the basis of current prices.

If a 10 percent escalation is assumed each year for the 10-year period and the revenues are not likewise adjusted for the comparable escalation in the sale of Federal surplus property, the Federal needs would be roughly \$1.5 billion or 50 percent greater than projected.

It should be remembered, however, that approximately two-thirds of the revenues are derived from the sale of Federal surplus property, and the escalation in real

estate prices that would prevail for purchase of Government land presumably would likewise prevail for the sale of Government land. To this extent, escalation would be offset.

Another factor that tends to offset the effect of price escalation is the earning power of Federal dollars. In other words, if the money that is proposed to go into the Land and Water Conservation Fund goes instead into miscellaneous receipts, it presumably would be put to work by the Treasury and would be earning possibly 5 percent interest. Thus, the net increase in escalation annually, when considered against the income from Federal investment, would be about 5 percent instead of 10 percent.

2. Congress may allocate a larger percentage of available funds to the States. This would aggravate the Federal situation but would lessen the impact on State and local governments.

3. Condemnation judgments may be far greater than the amounts provided in the report's estimates.

4. More new areas are authorized than scheduled in the forecast.

5. Slower rate of funding by the Congress than scheduled. The consequence of deferred funding by the Congress is to magnify the effect of escalation. The sooner the program peaks, the less the price will be for any given parcel of land.

6. Failure of Fund revenues to come up to expectation, particularly those related to admission and user fees.

On the opposite side, the deficiency estimates shown above may be less than indicated if:

1. There should be an unexpected drop in the price of real estate.

2. Congress allocates a larger percentage of funds to the Federal agencies. This would help the Federal situation but adversely affect State and local needs.

3. Condemnation judgments are less than estimated.

4. Acceleration of acquisition projects by the State and corresponding deferment of development projects could lessen the impact of the expected deficiency in funds for State real estate acquisition. However, the total needs of the Fund would not be affected by such switching from development to acquisition unless it is assumed that the up-swing in development costs is at a slower rate than the up-swing in acquisition costs.

5. More rapid funding occurs. The sooner acquisition occurs, the less the effect of escalation.

6. Acquisitions of National Park Service inholdings are spread over a longer period.

7. Fewer new areas are authorized than projected.

8. Fund revenues are larger than anticipated, through an increase in existing receipts, addition of new revenue sources, greater advance appropriations, or a decision by the Congress to extend motorboat fuel taxes revenues beyond the present terminal date of September 30, 1972.

## **AUGMENTING THE LAND AND WATER CONSERVATION FUND**

Unless existing revenues to the Land and Water Conservation Fund are augmented, the program needs outlined previously cannot be met. A program alternative would be to lengthen the acquisition period, delay the authorization of additional new Federal recreation projects during the next 10-year period, or forego the implementation of existing authorizations.

Such actions would be unfortunate in the face of public demand for outdoor recreation opportunities and the rising trend in land values. The Nation's supply of public outdoor recreation resources is constantly being reduced by the spread of urbanization and industrial and commercial development. Prime areas need to be set aside now before they become prohibitively costly or lost to other uses.

A necessary first step in the alleviation of the escalation problem is to provide additional revenues to the Land and Water Conservation Fund in order to make funds available for appropriation for use in promptly acquiring lands especially in recently authorized areas.

Possible sources of revenue for increasing the flow of money into the Fund are certain collections received by the Department of the Interior from oil, gas, and other mineral leases and certain receipts collected by the

Department of Agriculture from the national forests and national grasslands. While many of these receipts are already earmarked for other purposes, such as Indian Trust Funds, State and other local public bodies, and the Reclamation Fund, others go into the miscellaneous receipts of the Treasury. These latter receipts should be used to augment the Land and Water Conservation Fund. A bill to accomplish this purpose has been drafted. (See Appendix I.) This proposed legislation would, of course, have no effect on those revenues now shared with the States or dedicated to other purposes. The bill applies only to revenues that now go into miscellaneous receipts of the Treasury.

### **Potential Funds from the Department of the Interior**

The revenues of the Department of the Interior which could be used to augment the Land and Water Conservation Fund include all receipts under the mineral leasing laws from public lands and all collections made pursuant to the Outer Continental Shelf Lands Act of 1952, as amended, that currently go into miscellaneous receipts of the Treasury.



Unearmarked funds of the Department could provide about \$100 million annually to the Fund, based on the average receipts for the fiscal years 1957–1966. Of this amount, about \$90 million represented receipts from the Outer Continental Shelf lands and \$10 million from mineral leases on public lands. The receipts vary widely from year to year. For the past 10 years, receipts from rents, royalties, and bonuses under the Outer Continental Shelf Lands Act, exclusive of amounts held in escrow, have been as follows:

<i>Fiscal Year</i>	<i>Amounts (Thousands)</i>
1957	\$ 2,209
1958	3,461
1959	3,412
1960	229,457
1961	7,305
1962	11,612
1963	336,814
1964	16,491
1965	53,470
1966 (Preliminary)	248,317
1957–1966 average annual	91,255

About \$800 million of the revenues that have been collected from the Outer Continental Shelf are presently held in escrow pending court decision on distribution to the United States and Louisiana. Any moneys released in the future to the United States should be included in the receipts to be deposited to the Land and Water Conservation Fund.

For the past 10 years, receipts from leases issued pursuant to the Mineral Lands Leasing Act of 1920, as amended, and the Potash Leasing Acts of 1927 and 1948, as amended, have been as follows:

<i>Fiscal Year</i>	<i>Amounts (Thousands)</i>
1957	\$ 75,324
1958	86,274
1959	87,174
1960	88,080
1961	92,330
1962	109,862
1963	107,743
1964	112,483
1965	113,456
1966 (Estimated)	114,663
1957–1966 average annual	98,739

Ten percent, or roughly \$10 million annually, goes into miscellaneous receipts of the Treasury.

## Potential Funds from the Department of Agriculture

Unearmarked receipts from the national forests and national grasslands collected by the Department of Agriculture would provide, if authorized, about \$80 million annually to the Land and Water Conservation Fund, based on the average unearmarked receipts for the fiscal years 1957–1966, shown below.

National Forest and National Grassland Unearmarked Receipts	
<i>Fiscal Year</i>	<i>Amounts (Thousands)</i>
1957	\$ 70,167
1958	58,460
1959	77,189
1960	91,909
1961	64,803
1962	70,542
1963	77,648
1964	85,025
1965	92,006
1966 (Estimated)	101,500
1957–1966 average annual	78,500

The above receipts represent about 60 percent of total receipts from the national forests and national grasslands.

Some of the revenues that have been collected from the national forests are presently held in escrow pending settlement of Indian rights on Tongass National Forest, Alaska. The amount in escrow through fiscal year 1966 is about \$9.4 million. Any money released in the future to the United States could also be included in the receipts to be deposited to the Land and Water Conservation Fund.

The above receipts from the national forests do not include those placed annually in an account established for Oregon and California railroad grant lands. The latter funds are transferred to the Department of the Interior for distribution under the Acts of August 28, 1937, as amended, (43 U.S.C. 1181 f–g). As mentioned earlier, these and other earmarked receipts are not proposed for inclusion in the Land and Water Conservation Fund.

## Overcoming the Fund Deficit

When the proposed additional receipts are deposited into the Fund and the advance appropriation authority

is utilized, a deficit of \$2.7 billion between recreation needs and existing revenues is eliminated as shown in the following tabulation:

	<i>Billion dollars</i>
Estimated Total Deficit FY 1968-77	—\$2.7
Proposals for overcoming deficit:	
(1) Advance appropriations now authorized	+ .5
(2) Unearmarked Interior mineral receipts	+ 1.5
(3) Unearmarked Forest Service receipts	+ .7
Total	+\$2.7

The above additional funds are vital in order to accelerate the Federal land acquisition programs already authorized or for Federal recreation areas that may be authorized in the future. These would include such major land acquisitions as those for the Delaware Water Gap National Recreation Area, Indiana Dunes National Lakeshore, Spruce Knob-Seneca Rocks National Recreation Area, Assateague Island National Seashore,

Whiskeytown-Shasta-Trinity National Recreation Area, Fire Island National Seashore, Cape Cod National Seashore, and many others.

Equally important, these additional revenues to the Fund can be used to augment the grant program for land acquisition and development to the States and, through them, to local public bodies. The States and their political subdivisions are faced with escalation problems in their acquisition programs similar to those of the Federal Government. Because of this, many of the lands needed for public recreation are being preempted each year for other uses and are thus lost permanently to recreation.

The deposit of the proposed additional revenues into the Land and Water Conservation Fund is a fiscally sound method of providing more adequate financing for meeting Federal and State recreation needs. The proposal involves the investment of income from the development of public lands in capital assets that will improve and protect our outdoor environment. This, in turn, will provide opportunities for healthful outdoor recreation experiences for all of our people. The investment will be for a permanent resource of the Nation that will steadily appreciate in value.

## ZONING BY LOCAL OR FEDERAL AGENCIES

The exercise of local zoning authority can be an effective means to protect outdoor recreation resources in or around existing or proposed Federal recreation areas. Through zoning regulations, use of land which would clearly damage Federal or other public recreation resources can be prevented and speculative activities minimized.

For example, in the case of the act authorizing Fire Island National Seashore, the Congress prohibited the use of eminent domain for lands within the project “. . . so long as the appropriate zoning agency shall have in force and applicable to such property a duly adopted, valid, zoning ordinance that is satisfactory to the Secretary.”

A number of problems and difficulties arise in obtaining effective cooperation on the part of some local zoning authorities in protecting and preserving the Federal interest in an area. Local zoning authorities may be reluctant to disturb local land use patterns, or their members may have substantial business interests of their own which they sincerely believe may be adversely affected by the Federal developments.

A method is needed to overcome the reluctance on

the part of local zoning authorities to adopt regulations governing land use within a Federal recreation area.

It has been proposed that acts authorizing the new Federal recreation areas also provide that the head of the administering agency may not acquire any land until the local zoning authority shall have in force zoning ordinances that are satisfactory to the head of the administering agency.

However, local zoning authorities may not take the zoning action desired by the head of the administering agency. If this occurs, the head of the administering Federal agency may find that he is unable to proceed with the establishment of the area under the Congressional mandate given him. In effect local authorities would be given a veto over the will of Congress.

It is, therefore, recommended instead that the enabling legislation for a new Federal recreation area contain provision for exercise of sufficient legislative jurisdiction to empower the administering Federal official to zone land use within the authorized area boundary in the event local zoning authorities fail to do so within a reasonable period of time.



The desired effect of Federal zoning regulations would be to insure the orderly development of the area in keeping with the purposes for which the Federal recreation area is established and to prevent uses of land inimical to such purposes. Speculative developments could be prevented in this manner.

In all situations, however, it must be clearly established that the purpose of any Federal land use regulations is in the interests of the public health, safety, and welfare. Zoning regulations aimed primarily at suppressing land values in advance of acquisition by the regulating body would undoubtedly be held to be unconstitutional.

Some argue that Federal zoning is unconstitutional because the Federal Government lacks a jurisdictional basis for Federal regulation. It is further argued that Federal zoning conflicts with the reserved "police powers" of the States, whether exercised in zoning ordinances or not. If, at the time a new Federal recreation area is authorized, the State voluntarily gives up its legislative jurisdiction to the United States, this would vitiate any question of authority to promulgate Federal regulations,

leaving only the reasonableness of the regulation itself.

Others argue that authorization by the Congress of a new Federal recreation area *per se* establishes a sufficient Federal interest to issue zoning regulations either: (1) in the legislation itself, or (2) by authorization to the head of a Federal agency to issue regulations contained in the legislation.

Federal zoning of lands peripheral to established Federal recreation areas has not been included in this report. At the request of the Director of the Bureau of the Budget, this subject is being developed as a legislative proposal for possible transmittal to the 90th Congress. It is believed to have substantial potential and should be recommended.

In summation, it is recommended that the act authorizing a new Federal recreation area contain provisions which would provide a basis, in the event of failure of local zoning authorities to adopt acceptable zoning ordinances, for the head of the administering Federal agency to zone the area to permit only such development within the area which is consistent with the purposes of the authorization act.

## CONTINUING EXPENDITURE AUTHORITY

Several Federal agencies now have authority to incur obligations and to enter into contracts in advance of appropriations. Under the Federal highway program, for example, the Secretary of the Interior may contract in advance of appropriations for the purchase of lands in connection with the construction of Indian reservation roads, parkways, and public lands highways not to exceed the total amount authorized to be appropriated for this purpose. The Bureau of Public Roads and the Forest Service have similar authority. The Federal National Mortgage Association and Federal Deposit Insurance Corporation also have this obligational authority.

The difficulty with advance contract authority is that it could be considered "back-door" funding in that it bypasses the Congressional appropriation process. Depending upon how authorizing language was written, advance contracting authority might be effective only with landowners who were willing to negotiate the sale of their properties. If it were practical to obtain advance contracting authority, it would permit the use of eminent domain in critical situations and would permit immediate payment from funds of the Treasury to be repaid in subsequent years out of revenues to the Land and Water Conservation Fund. This would be an effective device.

An alternative to advance contracting authority and one that is termed "continuing expenditure" authority would be effective and is believed to be more practical of attainment. Continuing expenditure authority means the enactment of authority by the Congress to allow the appropriation act to specify for a period of years what portion of the Federal allocation could be expended upon the discretion of the Secretary of the Interior to newly authorized areas not programed in the normal appropriation process or to solve particularly critical situations that develop subsequent to the normal programing of the Federal portion of the Land and Water Conservation Fund. This device would require initial enactment of substantive legislation processed through the Interior and Insular Affairs Committees and subsequent action by the Appropriations Committees, which could grant such continuing expenditure authority for 1 year or a series of years. Thus, the normal committees of the Congress would not be bypassed, and a device would be provided to move immediately in newly authorized areas or in areas where escalation in land prices becomes a sudden and serious problem.

The continuing expenditure approach is recommended in preference to the advance contracting authority as an effective supplement to the other basic proposal of increasing revenues in the Land and Water Conservation Fund.



## ADVANCE PLANNING

One of the methods of minimizing land value escalation is for the land acquiring agencies to begin the land purchase program as soon as possible following authorization of a Federal recreation area and to complete acquisition within a 3-year period.

On the average, 12 to 18 months are required to contract for and complete the mapping of areas to be acquired, to determine property ownerships from county and local records, to obtain individual tract appraisals, and to secure other basic engineering information upon which to base a land purchase program. During this time, a minimum 5 to 10 percent annual rise in the value of lands in the project area is in progress. In addition, the study disclosed that, following the authorization of an area, land values do rise at an accelerated rate.

Appropriations from the Land and Water Conservation Fund are made to the acquiring agencies for land acquisition planning activities. But the problem is the significant time lapse from the authorization of an area to the appropriation of funds for land planning purposes. In 14 National Park Service areas, for example, there was an average time lag of 16 months, ranging from 1 to 72 months, between authorization and funding. A number of these areas were funded, however, from other sources prior to the enactment of the Land and Water Conservation Fund Act.

To overcome this time lag and associated higher land acquisition costs, funds from the current fiscal year acquisition program have been utilized through reprogramming to initiate land acquisition planning work on newly authorized Federal recreation areas. But this

really does not get at the escalation problem. It simply means that, while progress is being made on one area, the problem worsens in another. Moreover, the Appropriations Committees are already concerned about the number of reprogramming actions. They are rightfully challenging the soundness and urgency of the current fiscal year program as originally justified. Therefore, adequate funds need to be provided which will permit the Federal agencies to do land acquisition planning immediately following the authorization of a recreation area.

Furthermore, during the 12- to 18-month period in which land acquisition planning work is underway, private developers may become active in a newly authorized Federal recreation area. The availability of emergency funds would permit the Federal Government to acquire key recreation lands before adverse developments can get underway. In addition, these funds would be available to make initial purchases to establish a price pattern that will be helpful in future purchase negotiations or in establishing values in the event a condemnation action must be taken. These funds would also be available to take advantage of willing sellers who offer their lands at attractive prices.

Accordingly, it is recommended that funds be appropriated annually to the Bureau of Outdoor Recreation for allocation to the acquiring Federal agency on an emergency case-by-case basis for land acquisition planning and acquisition in newly authorized Federal recreation areas threatened by adverse development. A much more adequate alternative would be the continuing expenditure authority previously discussed.

## CONDEMNATION PROCEEDINGS — USE OF COMMISSIONERS TO DETERMINE LAND VALUES

A total of 29 court condemnation cases now pending in 14 units of the National Park Service system is expected, based upon past experience, to result in awards considerably above the fair market value at the time the declaration of taking was filed. If these awards must be paid from the Land and Water Conservation Fund, it will place a further unanticipated drain on the available funds for the purchase of lands.

In all of these cases, National Park Service appraisals, contractor appraisals, or both have determined the going value of the land "in the market place." However, court awards based upon jury verdicts have been found to be,

on the average, substantially above the appraised fair market value of the land. As a consequence, one Federal agency participating in the Land and Water Conservation Fund program is now following almost entirely a policy of negotiation and opportunity buying rather than condemnation.

If there are no land acquisition deadlines to meet which relate to construction or other program commitments, the policy of negotiation and opportunity buying has much merit. However, the application of this policy to the acquisition of our rapidly vanishing seashores and to meeting other pressing outdoor recreation needs by Federal agencies does not seem practical.

How, then, can the Federal Government be protected against excessive court awards and the property owner compensated for the fair value of his land?

One means of holding the costs of land at reasonable levels when the Federal Government exercises its eminent domain power is that now in use by the Tennessee Valley Authority and the District of Columbia. In the case of the Tennessee Valley Authority, an Act of Congress (U.S.C., Title 16, Sec. 831x) (see Appendix II) provides that compensation for land to be acquired under condemnation proceedings is to be fixed by three disinterested commissioners appointed by the court whose award goes before the district court for confirmation or modification. The commissioners cannot be elected from the locality wherein the land sought by the Federal Government lies. No trial by jury is permitted in such cases.

The Tennessee Valley Authority concludes that the commissioner (tribunal) system is preferable under the conditions affecting the Tennessee Valley Authority and that the jury system would not work satisfactorily. The commissioner system also is used by the District of Columbia.

Considerable judicial study and review have been given to the use of the commissioner system vis-a-vis jury trial to determine value of land. Rule 71A of the Rules of Civil Procedure for the United States District Courts (28 App. U.S.C. Rule 71A (1964)) prescribes procedures to be followed in either case.

The Advisory Committee to the Supreme Court on Rules, in a supplementary report on Rule 71A, carefully goes into the merits of each approach and summarizes the contending positions of those who believe jury trial is best and those who support the use of tribunals.

The Advisory Committee on Rules asked the views of each Federal judge participating in a Tennessee Valley Authority case as to whether or not a jury system is preferable. About 80 percent of those who replied approved the tribunal system and opposed the substitution of jury trial for the Tennessee Valley Authority. The Advisory Committee on Rules reported also that "many of the judges went further and opposed the use of juries in any condemnation case." The Advisory Committee on Rules cites the following reasons for the use of commissioners instead of juries in Tennessee Valley Authority cases:

1. The commission system tends to provide for uniformity in compensation. The jury system tends to lack uniformity. The Tennessee Valley Au-

thority condemns large areas of land of similar kind, involving many owners, and uniformity in awards is essential. Once a reasonable and uniform standard of values for the area has been settled by a commission, litigation ends and settlements result.

2. A commission may travel around and receive the evidence of the owner near his home. Where large areas are involved, many small landowners reside at great distances from the place where a court sits. To travel long distances to attend a jury trial works great hardship on these people. It is impracticable to take juries long distances to view the case.
3. If the cases are tried by juries, the burden on the time of the courts is excessive.

Those who support the exclusive use of the jury system, and this includes the Department of Justice, appear to base their case largely on the need for uniformity in Federal judicial proceedings.

Although nowhere in the discussion of the two approaches is it mentioned that judgment costs would tend to be held down through the use of tribunals, it is believed that this would be one of the results of such a procedure. The Tennessee Valley Authority finds that, under the method which it operates, awards based upon sympathy or local sentiment are minimized, and a greater uniformity of awards for comparable properties is achieved. Once a uniform standard of values for an area has been determined by a commission, litigation ends and settlements result.

Accordingly, it is concluded that the use of commissioners to determine land values for Federal recreation projects would also reduce the ultimate cost to the Land and Water Conservation Fund and would speed up the acquisition of land. Each act authorizing a new Federal recreation area should provide for the use, in Federal condemnation cases, of the commissioner system for the assessment of the value of the land and for the determination of compensation to be paid to the landowner.

In order to permit the use of the commissioner system in those Federal programs of land acquisition for recreation purposes which are not specifically authorized on a project-by-project basis, amendment of the enabling act or other land acquisition authorities of the acquiring agency would be required. The Forest Service is a case in point.



## PRIVATE PHILANTHROPIC FUNDS

Another possible way of resolving the land escalation problem is through the use of private philanthropic funds and organizations for the purchase of key recreation lands which could then be held for future Federal, State, or local acquisition and development. It would amount to the establishment of a private revolving fund for this purpose. This would also be an excellent means of supplementing and complementing the Land and Water Conservation Fund and of maximizing the effective use of the Fund.

A somewhat related proposal was introduced in the 89th Congress—S. 3676, to establish a National Park Foundation. While not actually a private philanthropic organization, the Foundation, as proposed, does illustrate one method of how the encouragement of privately donated funds and properties might assist in achieving Federal land acquisition goals. The bill would enable private philanthropy, through the Foundation, to purchase and administer park land resources pending Congressional authorization of appropriations sufficient for the purchase of the lands by the National Park Service. The Foundation would supplant the existing National Park Trust Fund Board and would be given much broader authority to accept and administer gifts of property or income for the benefit of or in connection with the National Park Service. Such gifts can be personal or real property, absolute or trust, partial, complete, or income therefrom. In essence, there would be established a revolving fund initially structured by donated funds.

The National Park Foundation would be a charitable and nonprofit corporation and exempt from all Federal and State taxation. It also would be composed largely of private citizens (to be at least three-fourths of the Board membership). This, with its broader authority, is expected to create a climate and framework within

which the support of private, corporate, and trust donations and grants can be more readily achieved.

Principal advantages of the Foundation are: (a) the ability to move rapidly into a land purchase situation where delay would almost inevitably result in price escalation; and (b) providing an opportunity whereby donated private capital can perform a continuing and important national public service.

While the proposed Foundation would be helpful in assisting in the land acquisition needs of one agency only of the Federal Government—the National Park Service—the concept could be applied to other similar fund accumulations contributed by private and corporate philanthropy for other specific purposes. These could be managed independently of any Government program and administered with complete anonymity or with any desired level of publicity. There is no restriction placed by Congress on whom the Government buys land from once an area has been authorized.

It is considered doubtful by some officials that private and corporate philanthropy would be willing to commit substantial sums for the acquisition of lands to be held for possible use of public agencies for outdoor recreation purposes. Lands to be held for any length of time require management and would require expenditures for this purpose. In addition, it is considered highly improbable that funds in any substantial amounts—\$50 million to \$100 million or more—would ever be made available by private philanthropy.

Nevertheless, it is recommended that, to the extent practical, the President's Recreation and Natural Beauty Council and the President's Citizens Advisory Committee encourage and promote the purchase of key recreation lands by private philanthropic organizations to be held for future Federal, State, or local public acquisition and development.

## AUTHORITY TO ACCEPT AND USE DONATIONS OF LAND AND FUNDS

The Forest Service does not have general authority to accept and use donations of money for the acquisition of land for recreation purposes. The Department of the Interior does have this authority.

It is possible that other Federal agencies also may not have this authority. A general bill to authorize appropriate Federal land managing agencies to accept land and money for recreation purposes should be enacted.



## FEE ACQUISITION AND CONVEYANCE BY RESALE OR LEASE-OFF

One alternative of reducing land acquisition costs is the acquisition of fee ownership and then leasing off or selling off certain of the interests to a private owner of the land with reservations covering the future use and occupation of the land. Such resale or lease-off would appear to work best under the following conditions:

1. When planned use does not require absolute ownership, i.e., public access to or public development of the land is not anticipated.
2. When a separation of interests would be advantageous both to the Government and to the ultimate owner.
3. When more total forms of ownership appear impractical or improvident.

The mechanics and conditions of resale and lease-off can be comparatively simple. Recommended procedures include:

A quitclaim deed granted usually to the highest bidder and possibly with a reverter clause in cases of infraction, dependent upon the relative value such a clause would entail and the calculated need for such a provision.

Lease-off fees, when applicable, realistically assessed at the prevailing rate that private owners charge for similar rights.

Long-term leases but subject to periodic renegotiation of rates.

Revenue from both resale and lease-off sources reverts to the Land and Water Conservation Fund. A provision to insure such a practice should be a part of either project or omnibus legislation to authorize the sell-lease procedure.

Whenever the purchase in fee and a resale subject to restrictive covenant are contemplated by either con-

demnation or negotiation, there should always be presented to the owner of record the opportunity to grant an easement. This simple alternative may preclude condemnation proceedings in cases where the owner of record wishes to use the land in a manner commensurate with the use plan for the recreation area concerned. This would also eliminate the need to offer the former owner the opportunity to match the highest bid to the right or interest being resold.

Resale and lease-off arrangements following the acquisition of fee ownership have the following attributes:

1. Lands are used but not abused, and open space is assured through restrictions limiting density of development or otherwise regulating land use. Conforming uses result in both a productivity of the land and a preservation of scenic and other natural resources. Private resources share in the conservation efforts.
2. A taxable revenue source is retained to aid in the support of local government.
3. The high and concentrated original cost is returned over a period of years and constitutes a continuing source of income. The incremental increases in land value that normally occur are captured.
4. The sale or lease of rights usually conveys also the upkeep responsibility over the land. Maintenance costs may be reduced or eliminated as a result.

Legislation should be sought to permit land acquisition agencies to engage in resale and lease-off activities. Authorizing language along the lines of the Piscataway Park legislation (Public Law 89-513) in Appendix III would serve this purpose.

## ACQUISITION AND DEVELOPMENT GUIDELINES

In scheduling the acquisition of land and the development of facilities in a newly authorized Federal recreation area, the acquiring Federal agency should, insofar as possible, delay the construction of access roads into the area until the key lands are acquired. If access roads are constructed which open up the area to the public, the agency may attract potential purchasers of the land for speculative purposes and drive up the price of land in the area.

It is recognized that the public is attracted to a newly authorized Federal recreation area. It is difficult to withstand public pressures for better access to the project and demands for the adequate construction of recreation facilities as soon as possible. However, every effort should be made to complete the acquisition of key lands prior to the construction of access roads into the area.

## COORDINATION OF FEDERAL POLICIES AFFECTING RECREATION ACQUISITION PROGRAMS

The developers whose activities may cause an artificial rise in the price of lands in Federal recreation areas may be occasionally financially underwritten by other Federal programs. Development could be either commercial or residential—the end result being greatly increased Federal land acquisition costs due to improvements.

A specific example may have occurred at the Whittier Narrows Project, California, (Corps of Engineers). In this instance, a blanket condemnation was filed on 5,800 acres within the authorized project boundaries because an area was being subdivided and houses constructed. The net effect of the condemnation proceedings was that local financial institutions stopped loaning money for additional improvement of property scheduled for Federal acquisition. No information has been obtained to determine if, in fact, the loans made in the interim between authorization condemnation were FHA supported or not.

Private development and improvement of properties within the authorized boundaries of the Delaware Water Gap National Recreation Area are underway. Should this improvement be accomplished through federally sponsored loan programs, it would place the Federal Government in an embarrassing position in which one Federal agency is providing financial support for private development programs which, in turn, may serve to increase the land acquisition costs of another Federal agency acting under Congressional authorization for a different and, higher public purpose.

During July 1965, the Small Business Administration made 952 business loans for \$31.4 million. These included two golf courses, a ski lodge, a ski area, two marinas, several sporting goods stores, numerous restaurants, and retail grocery stores. Conceivably, some of these could have been constructed on sites authorized for public acquisition for recreation.

The Economic Development Authority, during its first year of existence, funded some 364 projects for \$290.9 million. Many of these were recreation oriented.

During 1964, the Federal Housing Administration backed 107.2 million loans for 107.5 new units costing \$1.6 billion. In 1965, they backed 115.2 million loans for 115.5 million new units costing \$1.8 billion. The magnitude of these loans, combined with increasing demands for open space-oriented outdoor recreation, suggests the possibility of a potential conflict which could affect the Land and Water Conservation Fund at both Federal and State levels. No investigation of this matter was made during the study of the escalation problem.

It is recommended that the President's Council on Recreation and Natural Beauty and the President's Citizens Advisory Committee be encouraged to investigate and recommend to the President the need for any coordinating action between Federal agencies and programs in order that loan or grant programs are not being used in a manner that aggravates the land price escalation problem.

## PREAUTHORIZATION OPTION AUTHORITY

Another effective approach to curtailment of escalation in land prices would be some kind of general statutory authority to enable land acquiring agencies to option key recreation lands in areas under investigation prior to authorization. Such option authority also would place less immediate drain on limited land acquisition funds, since the purchase of key tracts could be put off until such time as the option is exercised.

The use of option authority might not, and probably would not, be needed in every area. Its use probably should be left to the discretion of the head of the land acquiring agency and would be applied only on a selective basis under the following kinds of circumstances:

1. Where there is a definite indication that enhancement in value is likely to occur due to a proposed change in use by the landowner.
2. Where there is a definite threat of development or use which would be incompatible with the purposes of a Federal recreation area, if authorized.
3. Where price increases or spirals appear likely to occur due to the contemplated acquisition by the Government or other abnormal market conditions.

In large projects with many ownerships, the option method probably would apply only to those critical and/or high value tracts where the threat of escalation

appears greatest and where it is essential to establish a reasonable price pattern.

The major drawback of this approach is the expected reluctance of Congress to give Executive Branch agencies authority to expend funds for options in advance of acquisition authority.

The option authority for land acquiring agencies should be limited as follows:

1. Preauthorization options should be used at the discretion of the Secretary of the Department concerned only in areas which he deems suitable and likely to be needed for Federal recreation purposes.

2. Lands to be optioned which provide access or have intensive recreation potential should have a minimum value of at least \$25,000.
3. Options should be obtained for periods not to exceed 36 months.
4. The agreed upon option price to landowners should not exceed the fair market value of the land at the time the option is negotiated.
5. Payment for the option should not exceed 10 percent of the fair market value of the land at the time the option is negotiated, providing that the total amount of the option does not exceed \$50,000.

## DEFERRED FINANCING OF LAND ACQUISITION

The principal recommendations of this report are based upon the need to complete the acquisition of lands required in recently authorized Federal recreation areas and to be in a position to proceed immediately to acquire needed lands in newly authorized Federal recreation areas. A 3-year period is recommended for the acquisition of all the lands required to establish a newly authorized Federal recreation area.

In order to minimize this substantial impact on Federal financial resources at this time, one alternative is to authorize the head of the land acquisition Federal agency to enter into a long-term contract with the landowner for the purchase of his land. The contract would provide for the deferment of up to half of the cost of acquisition of the land. The deferred portion of the compensation would bear interest at a fixed rate, payable with each installment as it comes due, and would be tax free. This method will permit great flexibility as to how and when the payments would come due. The balance due, plus interest, would be an obligation of the United States payable out of the Land and Water Conservation Fund. This method can be used only if the landowner consents.

A second alternative to defer payment for any or all lands to be acquired by the Federal Government is to issue Treasury bonds. The bonds would be registered, negotiable, and tax free interest bearing, with varying dates of maturity available to facilitate arriving at a plan acceptable to the landowner. Bond redemption funds would be payable out of the Land and Water Conservation Fund.

An added inducement to the landowner would be the ability of the original landholder and his heirs to use a lower rate of capital gains in the event such rate of tax is altered. This method of payment again could be used only if the landowner consented thereto.

The contractual method would permit great flexibility as to how and when payments would come due but would not have the feature of negotiability presented by the use of Treasury bonds.

Probably neither of the above deferred payment alternatives would be acceptable to the Administration or the Congress because they constitute so-called back-door financing.

## CONDEMNATION BY JUDICIAL PROCEEDINGS

Authority exists by which an action may be brought in a Federal court to condemn lands needed to establish a Federal recreation area. Under this procedure, the Government does not obtain title to the land until a judgment of condemnation is entered nor, ordinarily,

does the Government obtain possession until that time. In some quarters, this is also known as an "old-fashioned" peripheral condemnation. In such case, the Federal Government files a notice with the Federal court which tells all of the owners within a certain boundary that the



Federal Government will proceed to acquire their land for certain purposes, such as the establishment of a new Federal recreation area. Normally, no funds are deposited with the court at the time the action is taken. However, funds should be made available shortly after the action is filed to condemn the land to pay for the land at prices arrived at through negotiation pending disposition of the condemnation proceeding and to meet the court awards.

The Corps of Engineers, in connection with the construction of the Whittier Narrows Project, California, filed a peripheral condemnation of 5,800 acres within the authorized project boundaries. This action was taken to stop the area from being subdivided and houses constructed.

The net effect of the condemnation proceedings was that local financial institutions stopped lending money for additional improvement of property being condemned for Federal acquisition. It is our understanding

that the Corps has not utilized this method on other projects. A blanket or peripheral condemnation suit obviously creates a certain amount of landowner criticism and pressures upon the agency involved.

Immediate title may be obtained by the filing of a declaration of taking by the head of a Federal land acquisition agency as a part of the condemnation action. However, should such action be taken, funds must be made immediately available for deposit in the court. The "declaration of taking" procedure is the condemnation procedure normally employed by the Executive Branch.

It is vital that the agency taking this course of action must have determined individual landownerships and project boundaries. Any appreciable delays in the opening of negotiations with all of the property owners in the area or in the condemnation of the land could cause dissatisfaction among property owners wishing to sell their land as soon as possible.

## LEGISLATIVE OR EXECUTIVE CONDEMNATION

Congress may exercise the power of eminent domain by enacting legislation which either itself takes or which provides for the taking of certain areas in the name of the United States, leaving to the courts the question of compensating the landowner for the fair market value of the land.

Congress may provide for the taking to occur as of the date the legislation is signed into law by the President. Such legislation would curb price escalation, freeze land use in its current status, and hold the value of the land as of the time the bill is signed into law. Such immediate taking by the United States would also prevent land speculation, since title to the land would be vested in the United States. However, interest on the court judgments determining the value of the land would run from the time the act was signed into law.

By Public Law 85-915 (72 Stat. 1762), the Congress condemned and vested in the United States 55,991.82 acres of land within the taking area described in the act on the Standing Rock Indian Reservation in South Dakota and North Dakota as of the date the bill was signed into law.

If legislative condemnation is recommended, detailed information must be available at the time Congress considers the legislation with regard to landownerships, exact acreages involved, project boundaries, and the appraised value of the lands to be taken. This approach ordinarily would not be practicable when there are many small ownerships.

A variant of this approach would vest in the head of the Federal land acquisition agency the right to effect the taking at such time as he determines to be appropriate. This would avoid the necessity of having detailed information available at the time the legislation is passed. Unless funds for payment are available immediately upon the taking, these approaches would likely lead to substantial landowner criticism.

By Senate Joint Resolution, Public Law 85-523 (72 Stat. 361), the Congress provided for the transfer of funds in the Treasury to the credit of the Crow Indian Tribe.

In connection with the construction of air fields during World War II, Congress exercised the power of eminent domain by selecting the areas to be taken and vesting title immediately in the United States.

## USE OF RIVER BASIN COMMISSION BONDING AUTHORITY

Several bills were introduced in the 89th Congress to permit the Secretary of the Interior to contract with the Delaware River Basin Commission to repay it for funds made available to him through the issuance of bonds by the Commission. Funds for the retirement of the Commission's bonds, plus interest, would be obtained from the Land and Water Conservation Fund.

The Delaware River Basin Commission has authority (75 Stat. 688, 702) to borrow money to accelerate land acquisition for the Delaware Water Gap National Recreation Area. The Commission cannot guarantee the funds and must contract with another agency for their

repayment. The Commission is willing to enter into an agreement with the Secretary whereby it will raise funds to acquire the national recreation area property through the sale of bonds and will transfer such funds to the Secretary.

The foregoing method is similar to the practice of some States of selling income anticipation warrants to finance State projects. Colorado, for example, has used effectively a revenue anticipation warrant for this purpose. Colorado is now using anticipation warrants, based on an emergency one-cent gasoline tax, to finance repairs resulting from flooding damage.

## CAPITAL GAINS TAX

It has been believed by many that a substantial factor in escalating costs of land was large-scale speculation in lands within the boundaries of newly authorized Federal recreation areas. To limit such speculation and the adverse impact on costs of acquisition, it was concluded that special tax treatment might be afforded to recover speculative gains which were being paid for by the Federal Government. This was to be accomplished by the imposition of a high rate of capital gains tax on profits from the sale of lands newly acquired by private persons within the authorized area.

However, based upon information now available, escalation of land values is primarily the result of general rising trends in values, keen competition for prime

recreation lands and upgrading of lands through changed land use. Information is not available to readily separate the value increase attributable to speculation from that caused by other factors.

Because the Treasury, within the past year, has expressed a negative opinion with respect to such a tax and, equally important, because of the lack of sufficient evidence that speculation is a significant contributing factor to escalating acquisition costs, it is recommended that no action be taken to seek special tax treatment.

An alternative that might be more palatable, in that it entirely avoids the discriminatory taxation stigma, would be to allow special tax breaks or concessions to those owners who agree, after authorization of an area, not to subdivide, sell or change the character or use of their property.

## A BILL

To amend the Land and Water Conservation Fund Act of 1965 in order to provide for more adequate outdoor recreation opportunities for the American people, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Section 2 of Title I of the Land and Water Conservation Fund Act of 1965 is amended by adding a new subsection (d) which shall read as follows:

(d) Other Revenues.—All revenues received on and after July 1, 1967, under the Mineral Leasing Act of 1920, as amended (except revenues received from lands within naval petroleum reserves), and all revenues received under the Outer Continental Shelf Lands Act of 1953, as amended (including the funds held in escrow under an interim agreement of October 12, 1956, between the United States and Louisiana, to the extent the United States is determined to be entitled to such escrow funds), and all money received by or on account of the Forest Service which is disposed of pursuant to Section 499, Title 16, United States Code, to the extent such revenues otherwise would be deposited in miscellaneous receipts of the United States Treasury.

Sec. 2. Title I of the Land and Water Conservation Fund Act of 1965 is amended further by adding thereto a new Section 8 which shall read as follows:

Sec. 8. Notwithstanding any provisions of this Act, during the fiscal years 1968–1977, moneys covered into the fund may be expended as provided in this section without further appropriation for the acquisitions specified in subsection (a) (1) of Section 6 of this Act. Such expenditures may not exceed the amounts specified initially for each of said fiscal years in an appropriation act. Any amount so specified may be modified from time to time in a subsequent appropriation act. Amounts so expended in any fiscal year shall be within the allocation of moneys in the fund to Federal purposes for that year and shall be in accordance with allotments by the Secretary of the Interior. No acquisition may be made with funds provided pursuant to this section unless such acquisition is otherwise authorized by law.



## APPENDIX II

Tennessee Valley Authority for use of tribunals to determine value of land to be acquired through condemnation proceedings (U.S.C., Title 16, Sec. 831X)

§ 831x. *Condemnation proceedings; institution by corporation; venue; review.*

The Corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights-of-way which, in the opinion of the Corporation, are necessary to carry out the provisions of this chapter. The proceedings shall be instituted in the United States district court for the district court in which the land, easement, right-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America.

Upon the filing of a petition for condemnation and for the purpose of ascertaining the value of the property to be acquired, and assessing the compensation to be paid, the court shall appoint three commissioners who shall be disinterested persons and who shall take and subscribe an oath that they do not own any lands, or interest or easement in any lands, which it may be desirable for the United States to acquire in the furtherance of said project, and such commissioners shall not be selected from the locality wherein the land sought to be condemned lies. Such commissioners shall receive a per diem of not to exceed \$30 for their services, together with an additional amount of not to exceed \$10 per day for subsistence for time actually spent in performing their duties as commissioners, and reimbursement of actual transportation expenses including an allowance for use of privately owned automobiles at a rate not to exceed 7 cents per mile.

It shall be the duty of such commissioners to examine into the value of the lands sought to be condemned, to conduct hearings and receive evidence, and generally to take such appropriate steps as may be proper for the determination of the

value of the said lands sought to be condemned, and for such purpose the commissioners are authorized to administer oaths and subpoena witnesses, which said witnesses shall receive the same fees as are provided for witnesses in the Federal courts. The said commissioners shall thereupon file a report setting forth their conclusions as to the value of the said property sought to be condemned, making a separate award and valuation in the premises with respect to each separate parcel involved. Upon the filing of such award in court the clerk of said court shall give notice of the filing of such award to the parties to said proceeding, in manner and form as directed by the judge of said court.

Either or both parties may file exceptions to the award of said commissioners within twenty days from the date of the filing of said award in court.

Exceptions filed to such award shall be heard before three Federal district judges unless the parties, in writing, in person, or by their attorneys, stipulate that the exceptions may be heard before a lesser number of judges. On such hearing such judges shall pass de novo upon the proceedings had before the commissioners, may view the property, and may take additional evidence. Upon such hearings the said judges shall file their own award, fixing therein the value of the property sought to be condemned, regardless of the award previously made by the said commissioners.

At any time within thirty days from the filing of the decision of the district judges upon the hearing on exceptions to the award made by the commissioners, either party may appeal from such decision of the said judges to the court of appeals, and the said court of appeals shall upon the hearing on said appeal dispose of the same upon the record, without regard to the awards or findings theretofore made by the commissioners or the district judges, and such court of appeals shall thereupon fix the value of the said property sought to be condemned.

## APPENDIX III

Piscataway resale and lease-off provisions, Public Law 98-513, 89th Congress, H. R. 13417, July 19, 1966

80 Stat. 319

Prince Georges and Charles Counties, Md. Preservation of certain lands.

To amend the Act of October 4, 1961, to facilitate the efficient preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) in order to achieve more efficiently the purposes of the Act of October 4, 1961 (75 Stat. 780), the first sentence of section 2 (b) of said Act is amended to read as follows: "When the Secretary of the Interior receives a commitment, subject to such conditions as shall be agreeable to him and the potential donor or donors, in accordance with which commitment the property referred to in subsection (a) will be donated to the United States for purposes of this Act, he is authorized to acquire by such means as he finds are in the public interest other land and interests in land lying generally within the area identified as 'Fee Acquisition Area' on the drawing entitled 'Piscataway Park', numbered NCR 69.714-18, and dated January 25, 1966, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior."

(b) Section 2(b) of said Act is further amended by inserting at the end thereof the following new paragraph:

"With respect to any property acquired within the 'Fee Acquisition Area' except property donated to the United States, the Secretary may convey a freehold or leasehold interest therein, subject to such terms and conditions as assure the Secretary control over the property and its use solely in accordance with the purposes of this Act. When the Secretary exercises his discretion to convey such interest, he shall do so to the highest bidder, in accordance with such regulations as he may prescribe, but such conveyance shall be at not less than the fair market value of the property, as determined by the Secretary. Within

the 'Fee Acquisition Area', the Secretary may accept title to any non-Federal property or interest therein and in exchange therefor he may convey to the grantor of such property any federally owned property or interest therein within such area. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor from moneys appropriated to carry out the provisions of this Act or to the Secretary as the circumstances require. The proceeds received from any conveyance under this subsection shall be credited to the Land and Water Conservation Fund in the Treasury of the United States."

(c) The first sentence of section 2(c) of said Act is amended to read as follows: "To further the preservation objective of this Act the Secretary may accept donations of scenic easements in the land within the described area now leased and operated by the Marshall Hall Park, Incorporated, as more specifically described in a deed, recorded in the land records of Charles County, Maryland, in folio 126, liber 131, and the area designated as 'Scenic Protection Area' on the drawing referred to in subsection (b) of this section."

SEC. 2. Section 4 of said Act is amended by striking "\$937,600" and substituting "\$4,132,000"

Approved July 19, 1966.

### LEGISLATIVE HISTORY:

HOUSE REPORT No. 1465 (Comm. on Interior & Insular Affairs).

SENATE REPORT No. 1347 (Comm. on Interior & Insular Affairs).

CONGRESSIONAL RECORD, Vol. 112 (1966):

May 2: Considered and passed House.

June 30: Considered and passed Senate.









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